

**State Court Administrative Office  
Trial Court Services  
Problem-Solving Courts**

**Michigan Association of Treatment  
Court Professionals**



# **Adult Drug Court Standards, Best Practices, and Promising Practices**

**July 2017**



# *Introduction*

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## **Purpose**

This manual, written by staff from the State Court Administrative Office and board members of the Michigan Association of Treatment Court Professionals, is designed to assist Michigan's adult drug and DWI courts with adhering to the model promulgated by statute, research, the [\*10 Key Components of Drug Courts\*](#), and the [\*10 Guiding Principles of DWI Courts\*](#). Though the content in this manual comes from many sources, it leans most heavily on the National Association of Drug Court Professionals [\*Adult Drug Court Best Practice Standards, Volumes I and II\*](#). The manual pulls important pieces from all of these sources in order to best represent Michigan practices, and provide a guide for Michigan courts. This manual is intended for any drug court team member, but judges and program coordinators should pay particular attention in order to ensure their programs are implementing best practices. Subject-matter experts, such as probation officers or treatment providers, may find individual chapters to be most helpful.

It is important to note that this manual is not intended to replace the [\*Michigan drug court statute, MCL 600.1060 through 600.1084\*](#). The statute is the primary, guiding authority for all drug and DWI courts in the state. The excerpts from the statute included in this manual have not been altered or interpreted.

## **Definitions**

The chapters in this manual include three types of information.

- **Standard:** Standards are from the drug court statute, *The 10 Key Components*, and case law and other precedent that are binding on Michigan courts. Courts must adhere to the standards in this manual.
- **Best Practice:** Best practices are supported by scientific research and data or nonbinding case law, and are proven methods to follow. Best practices have been shown by empirical research to produce better outcomes than other practices, and their use results in higher-quality programs.
- **Promising Practice:** Promising practices are not yet supported by scientific research or data, but anecdotal evidence and experience suggest they are helpful in adhering to the model. Promising practices are suggestions to the courts that may aid in building higher-quality programs.

## **How to Use This Manual**

Each chapter is divided into relevant topics. Included within each topic are the standards, best practices, and promising practices, as well as the supporting authority or research. Not all topics have all three subdivisions; some topics have only best practices while some do not have promising practices.

There are two kinds of best practices in this manual: best practices that a program must follow in order to become a certified drug court, and best practices that a program should be following.

There are footnotes throughout the manual that refer to further reading or research. The three appendices are referenced in the chapters. Please contact the State Court Administrative Office if you have questions or need technical assistance.

## **Certification**

In order for a program to become a certified drug court in Michigan, it must comply with all of the standards and [required best practices](#) in this manual. All standards and required best practices are in bold.

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# *Chapter 1: Roles and Responsibilities of the Drug Court Judge*

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This chapter discusses the judge's role on a drug court team. The judge serves as the leader of the team and plays an important part in guiding participants through the program. Specific topics include the term as a drug court judge, staffing meetings, and review hearings. Confidentiality is mentioned but discussed in further detail in Chapter 3. The judge is also important in ensuring participants' due process rights are protected; best practices regarding due process are discussed in Chapter 4.

In order for a program to become a certified drug court, it must comply with all of the standards and required best practices in this chapter. All standards and required best practices are in bold.

## **1. GENERAL**

### ***a. Standards***

- i. A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:**
  - Ongoing close judicial interaction with each participant and supervision of progress for each participant. (MCL 600.1060(c)(vii))<sup>1</sup>**
  - Continued interdisciplinary education in order to promote effective drug court planning, implementation, and operation. (MCL 600.1060(c)(ix))**
- ii. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. A judge should always be aware that the judicial system is for the benefit of the litigant and the public, not the judiciary. (Michigan Code of Judicial Conduct, Canon 1)**

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<sup>1</sup> The Michigan drug court statute refers only to the [\*10 Key Components of Drug Courts\*](#). The National Center for DWI Courts, a division of the National Association of Drug Court Professionals, has also promulgated the [\*10 Guiding Principles of DWI Courts\*](#). Judges in DWI/Sobriety courts should also respect Guiding Principle #6, which reads, "Judges are a vital part of the DWI Court team. As leader of this team, the judge's role is paramount to the success of the DWI court program. The judge must be committed to the sobriety of program participants, possess exceptional knowledge and skill in behavioral science, own recognizable leadership skills as well as the capability to motivate team members and elicit buy-in from various stakeholders. The selection of the judge to lead the DWI Court team, therefore, is of utmost importance."

## ***b. Best Practices***

- i. Participants ordinarily appear before the same judge throughout their enrollment in the drug court.**
  - Drug courts that rotated the judicial assignment or where participants appeared before alternating judges had the poorest outcomes in several research studies. (Finigan, Carey, & Cox, 2007) (National Institute of Justice, 2006)
- ii. The drug court judge attends current training events on legal and constitutional issues in drug courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. Attendance at annual training conferences and workshops ensures contemporary knowledge about advances in the drug court field.**
  - Because judges have such a substantial impact on outcomes in drug court, continued training is especially important. (Carey, Mackin, & Finigan, 2012)
- iii. The judge presides over the drug court for no less than two consecutive years.**
  - When judges preside over drug courts for at least two years, those programs have significant cost savings and significantly lower recidivism. (Carey, Pukstas, Waller, Mackin, & Finigan, 2008) (Carey, Mackin, & Finigan, 2012)
  - Even greater reductions in recidivism were found in courts where the judges oversaw the drug court on a voluntary basis and the term was indefinite. (Carey, Mackin, & Finigan, 2012)
- iv. The judge bases interaction with drug court participants on the four principles of procedural fairness: voice, neutrality, respectful treatment, and trustworthy authorities.**
  - Drug use, probation violations, and recidivism rates were all reduced in drug courts that applied the four principles of procedural fairness. (MacKenzie, 2016)

## **2. STAFFING MEETINGS AND REVIEW HEARINGS**

### ***a. Standards***

- i. The judge is the final arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.**
  - In order to continue to participate in and successfully complete a drug treatment court program, an individual shall make all payments ordered pursuant to MCL 600.1074(1)(a-d) and comply with all court orders, violations of which may be sanctioned at the court's discretion. (MCL 600.1074(1)(e))**
  - The drug treatment court must be notified if the participant is accused of a new crime, and the judge shall consider whether to terminate the participant's participation in the drug treatment program in conformity with the memorandum of understanding under section 1062. If the participant is convicted of a felony for an offense that occurred after the defendant is admitted to drug treatment court, the judge shall terminate the participant's participation in the program. (MCL 600.1074(2))**
- ii. In the performance of judicial duties, the following standards apply:**
  - A judge should be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public clamor, or fear of criticism. (Michigan Code of Judicial Conduct, Canon 3(A)(1))**
  - A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers and of staff, court officials, and others subject to the judge's direction and control. (Michigan Code of Judicial Conduct, Canon 3(A)(3))**
  - Without regard to a person's race, gender, or other protected personal characteristic, a judge should treat every person fairly, with courtesy, and respect. (Michigan Code of Judicial Conduct, Canon 3(A)(10))**

## ***b. Best Practices***

- i. The judge regularly attends staffing meetings during which the drug court team reviews each participant's progress and discusses potential consequences for performance.**
  - Research has consistently shown that when the drug court judge regularly attends staffing meetings, cost savings increase and recidivism is reduced. (Carey, Pukstas, Waller, Mackin, & Finigan, 2008) (Carey, Mackin, & Finigan, 2012)
- ii. The judge considers the perspectives of all team members before making final decisions that affect participants' welfare or liberty interests. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.**
  - The collaborative nature of drug courts brings together experts from various disciplines. Their expertise and shared information allow the judge to make better-informed decisions. (National Association of Drug Court Professionals, 2013) (Hora & Stalcup, 2008)
- iii. Participants appear before the judge for status hearings at least once every two weeks during the first phase of the program. The frequency of status review hearings may be reduced gradually after participants have initiated abstinence from alcohol and illicit drugs and are regularly engaged in treatment. Status review hearings are scheduled at least once every four weeks until participants are in the last phase of the program.**
  - A substantial body of research demonstrates the importance of scheduling status hearings no less frequently than every two weeks during the first phase of a drug court. Participants had significantly better treatment attendance, substance use abstinence, and graduation rates when they were required to appear before the judge every two weeks. (National Association of Drug Court Professionals, 2013) (Festinger, Marlowe, Lee, Kirby, Bovasso, & McLellan, 2002)
- iv. The judge spends sufficient time during status review hearings reviewing each participant's progress in the program. Evidence suggests judges should spend a minimum of three minutes interacting with each participant in court.**
  - Recidivism was significantly reduced, by as much as 153 percent, in drug courts where the judge spent at least three minutes interacting with each participant. The same study showed that cost savings were also improved when the judge spent the minimum three minutes with each participant. (Carey, Mackin, & Finigan, 2012)
- v. The judge offers supportive comments to participants, stresses the importance of their commitment to treatment and other program requirements, and**

expresses optimism about their ability to improve their health and behavior. The judge does not humiliate participants or subject them to foul or abusive language. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.

- Research has consistently shown that the perceived quality of interactions between participants and the drug court judge is among the most influential factors for success in the program. (National Association of Drug Court Professionals, 2013)
- Significantly greater reductions in crime and substance abuse resulted when the judges were independently rated as being more fair, attentive, caring, and enthusiastic. (Zweig, Lindquist, Downey, Roman, & Rossman, 2012)

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# *Chapter 2: Participant Supervision and Compliance*

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This chapter discusses participant supervision and compliance with program requirements – often the role of probation officers or case managers. Specific topics include the drug court supervision caseload, frequency of monitoring events, services provided to participants, incentives and sanctions, phase promotion and graduation from drug court, and termination from drug court. Several topics are addressed in more detail in other chapters.

In order for a program to become a certified drug court, it must comply with all of the standards and required best practices in this chapter. All standards and required best practices are in bold.

## **1. CASELOAD**

### *a. Best Practices*

- i. The number of individuals participating in the program as a cohort or a track should be fewer than 125.
  - Programs that have fewer than 125 individual participants at one time have statistically significant reductions in recidivism. (Carey, Mackin, & Finigan, 2012)
  - Drug courts can serve more than 125 participants with effective results if the programs have sufficient personnel and resources to accommodate larger numbers of individuals. (Carey, Mackin, & Finigan, 2012) (Shaffer, 2010)
- ii. Supervision caseloads should not exceed 50 active participants per supervision officer (most commonly a probation officer).
  - Probationers on 50:1 caseloads received significantly more probation office sessions, field visits, employer contacts, telephone check-ins, and substance abuse and mental health treatment. As a consequence of receiving more services, they also had significantly better probation outcomes, including fewer positive drugs tests and other technical violations. (Jalbert & Rhodes, 2012)
- iii. The caseload for a treatment provider administering individual therapy should not exceed a 40:1 ratio.
  - Treatment providers serve principally as treatment providers, administering individual therapy or counseling and perhaps facilitating or cofacilitating group interventions. They may also refer participants for ancillary services such as mental health treatment or vocational

training. The caseload census guideline is derived from expert consensus. (Case Management Society of America & National Association of Social Workers, 2008) (National Association of Drug Court Professionals, 2015)

- State rules on Mental Health and Substance Abuse Services say that the equivalent of one or more full-time counselors shall be available for approximately 40 clients. (Michigan Mental Health and Substance Abuse Services Rules, Part 7, R 325.14701)

b. Promising Practices

- i. The caseload for a clinical case manager should not exceed a 75:1 ratio.
  - Case managers assess participant needs, broker referrals for services, and report progress information to the team. The caseload census guideline is derived from expert consensus. (Rodriguez, 2011) (National Association of Drug Court Professionals, 2015) Research is based on outcomes in the context of general probation, particularly high-risk, high-need probationers.

## 2. FREQUENCY

### *a. Standards*

- i. **A drug treatment court shall provide a drug court participant with all of the following:**
  - **Consistent, continual, and close monitoring of the participant and interaction among the court, treatment providers, probation, and the participant. (MCL 600.1072(1)(a))**
  - **Periodic evaluation assessments of the participant's circumstances and progress in the program. (MCL 600.1072(1)(c))**

### *b. Best Practices*

- i. **Participants appear before the judge for status hearings at least once every two weeks during the first phase of the program. The frequency of status review hearings may be reduced gradually after participants have initiated abstinence from alcohol and illicit drugs and are regularly engaged in treatment. Status review hearings are scheduled at least once every four weeks until participants are in the last phase of the program.**
  - A substantial body of research demonstrates the importance of scheduling status hearings no less frequently than every two weeks during the first phase of a drug court. Participants had significantly

- better treatment attendance, substance use abstinence, and graduation rates when they were required to appear before the judge every two weeks. (National Association of Drug Court Professionals, 2013) (Festinger, Marlowe, Lee, Kirby, Bovasso, & McLellan, 2002)
- ii. Participants meet individually with a clinical case manager or comparable treatment professional at least weekly during the first phase of drug court.
    - Studies consistently find that drug courts reduce recidivism and are more cost-effective when participants meet individually with a clinical case manager or comparable treatment professional at least weekly during the first phase of the program. (Carey, Mackin, & Finigan, 2012) (Cissner, et al., 2013)
  - iii. The judge spends sufficient time during status review hearings reviewing each participant's progress in the program. Evidence suggests judges should spend a minimum of three minutes interacting with each participant in court.
    - Recidivism was significantly reduced, by as much as 153 percent, in drug courts where the judge spent at least three minutes interacting with each participant. The same study showed that cost savings were also improved when the judge spent the minimum three minutes with each participant. (Carey, Mackin, & Finigan, 2012)

### *c. Promising Practices*

- i. Drug court participants meet with a supervision officer (most commonly a probation officer) at least twice per month in the early phases of the program. Many courts require weekly meetings in early phases.
  - While there is no specific research available on this topic, research on frequency of review hearings and meetings with clinical case managers is relevant. More frequent meetings allow for closer supervision.

## **3. SERVICES TO PARTICIPANTS**

### *a. Standards*

- i. **A drug treatment court shall provide a drug court participant with all of the following:**
  - **Substance abuse treatment services, relapse prevention services, education, and vocational opportunities as appropriate and practicable. (MCL 600.1072(1)(e))**

- ii. A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:

- Integration of alcohol and other drug treatment services with justice system case processing. (MCL 600.1060(c)(i))

### ***b. Best Practices***

- i. Participants regularly attend self-help or peer-support groups in addition to professional counseling. The peer-support groups follow a structured model or curriculum such as 12-step or Smart Recovery and offer non-faith-based options.
- Participation in self-help or peer-support groups is consistently associated with better long-term outcomes, including greater abstinence and lower mortality rates, when used in conjunction with substance abuse treatment. (Kelly, Stout, Zywiak, & Schneider, 2006) (Moos & Timko, 2008)
- ii. In the first phase of drug court, participants receive services designed primarily to address responsivity needs such as deficient housing; mental health symptoms; and substance-related cravings, withdrawal, or anhedonia.<sup>2</sup> In the interim phases of drug court, participants receive services designed to resolve criminogenic needs that co-occur frequently with substance abuse, such as criminal thinking patterns, delinquent peer interactions, and family conflict. In the later phases of drug court, participants receive services designed to maintain treatment gains by enhancing their long-term adaptive functioning, such as vocational or educational counseling.
- Outcomes, including graduation rates, recidivism rates, and engagement in treatment, are improved when rehabilitation programs address ancillary needs in this specific sequence. (National Association of Drug Court Professionals, 2015)
- iii. Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of drug court.
- At least two studies of drug courts have reported improved program retention, graduation rates, and treatment retention when unemployed or underemployed participants received a manualized, cognitive-behavioral vocational intervention. (Deschenes, Ireland, & Kleinpeter, 2009) (Leukefeld, Webster, Staton-Tindall, & Duvall, 2007)

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<sup>2</sup> Anhedonia: *noun*, psychiatry. An inability to feel pleasure.

- iv. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of drug court and continuing as necessary throughout their enrollment in the program.
  - Participants are unlikely to succeed in treatment if they do not have a safe, stable, and drug-free place to live. (Quirouette, Hannah-Moffat, & Maurutto, 2015)
- v. Ignition interlock devices and restricted driver licenses are made available to eligible participants. Drug courts should utilize the National Center for DWI Courts ignition interlock device guidelines when incorporating the use of these devices into their programs.
  - An evaluation of Michigan's Ignition Interlock Pilot Program showed that, compared to non-interlock offenders in DWI/Sobriety Court and to standard probationers, interlock program participants have the lowest recidivism rates after one, two, three, and four years of follow up. This is true for both drunk driving-related reoffending and for general criminal reoffending. (Kierkus & Johnson, 2016)

## **4. INCENTIVES & SANCTIONS**

### ***a. Standards***

- i. **A drug treatment court shall provide a drug court participant with all of the following:**
  - **A regimen or strategy of appropriate and graduated but immediate rewards for compliance and sanctions for noncompliance, including, but not limited to, the possibility of incarceration or confinement. (MCL 600.1072(1)(d))**
- ii. **A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:**
  - **Use of a coordinated strategy with a regimen of graduated sanctions and rewards to govern the court's responses to participants' compliance. (MCL 600.1060(c)(vi))**

## ***b. Best Practices***

- i. The drug court places as much emphasis on incentivizing productive behaviors as it does on reducing crime, substance abuse, and other infractions.**
  - Drug courts are able to reduce substance use and better prevent criminal behavior when they focus as much on incentivizing productive behaviors as they do on reducing noncompliant or undesirable behaviors. (Zweig, Lindquist, Downey, Roman, & Rossman, 2012)
- ii. The drug court has a range of sanctions of varying magnitudes that may be administered in response to program infractions.**
  - Drug courts are able to reduce substance use and recidivism when the sanctions for failing to meet difficult goals increase progressively in magnitude over successive infractions. This gives treatment a chance to take effect, and prepares participants to meet steadily increasing responsibilities in the program. (National Association of Drug Court Professionals, 2013)
  - Sanctions that are weak in magnitude can cause habituation in which the individual becomes accustomed, and thus less responsive, to punishment. Imposing high-magnitude sanctions when a participant fails to meet an easy goal helps to avoid habituation. (National Association of Drug Court Professionals, 2013)
- iii. Sanctions are imposed as quickly as possible after noncompliant behavior. Drug courts do not wait for the next review hearing to impose a sanction if the behavior can be addressed more immediately.**
  - The value of having sanctions imposed immediately after noncompliant behavior is a central tenet of behavior modification. Study results show that recidivism and cost-savings do not improve when drug courts wait until the next scheduled court appearance for noncompliant participants instead of bringing them in earlier. (Carey, Mackin, & Finigan, 2012)
- iv. Jail sanctions are definite in duration and typically last no longer than five days. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed as a liberty interest is at stake.**
  - Drug courts significantly lower recidivism and improve cost savings when they use jail sanctions sparingly. (Carey, Pukstas, Waller, Mackin, & Finigan, 2008)
  - Research indicates that jail sanctions produce diminishing returns after approximately three to five days. (Carey, Mackin, & Finigan, 2012)

- v. Participants do not receive punitive sanctions if they are otherwise compliant with their treatment and supervision requirements but are not responding to the treatment interventions. The appropriate course of action may be to reassess the individual and adjust the treatment plan accordingly.
  - If a drug court imposes substantial sanctions for substance use early in treatment, the team is likely to run out of sanctions and reach a ceiling effect before treatment has taken effect. Therefore, drug courts should ordinarily adjust participants' treatment requirements in response to positive drug tests early in the program. (Chandler, Fletcher, & Volkow, 2009)
- vi. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.
  - Relying on in-custody substance abuse treatment can reduce the cost-effectiveness of a drug court by as much as 45 percent. (Carey, Mackin, & Finigan, 2012)
- vii. Programs have a written schedule of sanctions for infractions that is shared with participants, but the team retains discretion to overrule the sanctions if there is good reason to do so.
  - Multistate research showed the most effective programs with regard to recidivism included greater predictability of sanctions. (Rossman & Zweig, 2012)

### ***c. Promising Practices***

- i. Immediate and tangible rewards help a drug court demonstrate the benefits of abstinence. Courts should seek to include tangible or token rewards, such as coins, gifts, certificates, or entry into a drawing in an incentives program.
  - Frequently, the benefits of abstinence, such as better health and lifestyle, are abstract and distant to the abuser. The point of motivational incentives is to bring the benefits of abstinence forward in less time. Both voucher- and prize-based reinforcement systems have been repeatedly shown to be effective interventions among substance abusers. (Stitzer, 2008) These tangible rewards can be used in drug court to more quickly improve behaviors.

## **5. PHASE PROMOTION AND GRADUATION**

### ***a. Standards***

- i. In order to continue to participate in and successfully complete a drug treatment court program, an individual shall comply with all of the following:**
  - **Pay all court-ordered fines and costs, including minimum state costs. (MCL 600.1074(1)(a))**
  - **Pay the drug treatment court fee allowed under section 1070(4). (MCL 600.1074(1)(b))**
  - **Pay all court-ordered restitution. (MCL 600.1074(1)(c))**
  - **Pay all crime victims rights assessments under section 5 of 1989 PA 196, MCL 780.905. (MCL 600.1074(1)(d))**
  - **Comply with all court orders, violations of which may be sanctioned according to the court's discretion. (MCL 600.1074(1)(e))**
- ii. The court shall not sentence a defendant to a term of incarceration, nor revoke probation, for failure to comply with an order to pay money unless the court finds, on the record, that the defendant is able to comply with the order without manifest hardship and that the defendant has not made a good-faith effort to comply with the order. (MCR 6.425(3)(a))**
- iii. If the court finds that the defendant is unable to comply with an order to pay money without manifest hardship, the court may impose a payment alternative, such as a payment plan, modification of any existing payment plan, or waiver of part or all of the amount of money owed to the extent permitted by law. (MCR 6.425(3)(b))**

### ***b. Best Practices***

- i. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specific period of time.**
  - **Drug courts have significantly better outcomes when they have a clearly defined phase structure and concrete behavioral requirements for advancement through the phases. (Carey, Mackin, & Finigan, 2012)**
  - **Phase advancement should not be based simply on the amount of time that participants have been enrolled in the program. (National Association of Drug Court Professionals, 2013)**

- ii. In order to graduate, participants who are able to join the labor force must have a job or be in school, in instances where health insurance and other social benefits are not at risk.
  - Both having a job and being in school are connected to cost savings and reduced recidivism after the participant leaves the program. If the participant is engaged in positive activities that lead to higher and legal income, they are less likely to engage in drug use and other criminal activities. (Carey, Mackin, & Finigan, 2012)
- iii. A period of greater than 90 continuous days of negative drug test results is required before a participant is eligible to graduate.
  - Drug courts where participants were expected to have greater than 90 days clean (demonstrated by negative drug tests) before graduation had 164 percent greater reductions in recidivism compared with programs that expected less clean time. (Carey, Mackin, & Finigan, 2012)

## 6. TERMINATION

### *a. Standards*

- i. **The drug treatment court must be notified if the participant is accused of a new crime, and the judge shall consider whether to terminate the participant's participation in the drug treatment program in conformity with the memorandum of understanding under section. (MCL 600.1062)**  
**If the participant is convicted of a felony for an offense that occurred after the defendant is admitted to drug treatment court, the judge shall terminate the participant's participation in the program. (MCL 600.1074)**

### *b. Best Practices*

- i. **Participants are terminated from the drug court if they can no longer be managed safely in the community or if they fail repeatedly to comply with treatment or supervision requirements.**
  - Drug courts have significantly poorer outcomes and are considerably less cost-effective when they terminate participants based only on drug or alcohol use. Drug courts that had a policy of terminating participants for positive drug tests or new arrests for drug possession offenses had 50 percent higher criminal recidivism and 48 percent lower cost savings than drug courts that responded to new use by

increasing treatment or applying sanctions of lower severity. (Carey, Mackin, & Finigan, 2012)

- ii. Participants are not terminated from the drug court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are nonamenable to the treatments that are reasonably available in their community. If a participant is terminated from the drug court program because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.
  - Drug courts that terminated participants merely for drug or alcohol use have significantly poorer recidivism rates and are less cost-effective. (Carey, Mackin, & Finigan, 2012)

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# Chapter 3: Confidentiality

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This chapter addresses confidentiality issues in drug court and shares some information with Chapter 4 (Due Process), so readers should read and consider chapters 3 and 4 together. Specific information in this chapter includes the Health Insurance Portability and Accountability Act (HIPAA), 42 CFR Part 2, redisclosure, records management, and staff training. Additionally, links to individual sections of the Michigan drug court statute can be found [here](#).

In order for a program to become a certified drug court, it must comply with all of the standards and required best practices in this chapter. All standards and required best practices are in bold.

## 1. CONFIDENTIALITY

### *a. Standards*

- i. **Title 42 of the United States Code, Section 290dd-2, is the federal law that protects the confidentiality of the identity, diagnosis, prognosis, or treatment of any patient records that are maintained in connection with the performance of any federally assisted program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research. 42 CFR, Part 2, contains the regulations implementing the alcohol and substance abuse confidentiality law. Full text of the law is available [here](#).**
  - **A drug court's performance of, or request for, an assessment of chemical dependency of a drug court participant, or a referral to treatment, places the drug court within the parameters of 42 CFR, Part 2, section 2.11.**
- ii. **The Health Insurance Portability and Accountability Act (HIPAA) is a federal law that protects confidentiality and the security of protected health information. While it does not directly apply to drug treatment courts, HIPAA does apply to the treatment agencies partnering with drug treatment courts, so drug courts must also comply with HIPAA. Full text of the HIPAA privacy law is available [here](#).**
- iii. **Except as otherwise permitted in the [Michigan drug court statute](#), any statement or other information obtained as a result of participating in a preadmission screening and evaluation assessment is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use. (MCL 600.1064(4) and MCL 600.1072(2))**

- iv. Confidential treatment court information and records may not be used to initiate or to substantiate any criminal charges against a participant or to conduct any investigation of a participant. (42 CFR, Section 2.35(d))
- v. State law may neither authorize nor compel any disclosure prohibited by the federal regulations, but where state law prohibits disclosure that would be permissible under the federal regulations, the stricter standard applies. (42 CFR, Section 2.20)
- vi. Treatment courts may receive or release information or records of participants only with the specific knowing, voluntary, and written consent of the participant, or under certain very limited exceptions. (42 CFR, Sections 2.22 and 2.31(a))
  - Waiver is the “voluntary relinquishment of a known right.” (Kelly v Allegan Circuit Judge, 1969)
  - Consent must include (42 CFR, Sections 2.14-2.35):
    - The specific name or general designation of the program or person permitted to make the disclosure.
    - The name of the participant permitting disclosure.
    - The name or title of the individual(s), or the name of the organization, to which (re)disclosure is to be made.
    - The purpose of the (re)disclosure.
    - How much and what kind of information is to be disclosed.
    - The participant’s signature and the signature of a person authorized to give consent for a minor.
    - The date on which consent is signed.
    - A statement that the consent is subject to revocation at any time except to the extent that the program or person which is to make the disclosure has already acted in reliance on it. Acting in reliance includes the provision of treatment services in reliance on a valid consent to disclose information to a third-party payer. (Note: this element, concerning the revocation of consent, should not be included in consent forms in criminal drug courts. It must be included in juvenile and family drug court waivers.)
    - Date, event, or condition upon which the consent will expire. The date, event, or condition must insure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given.
  - Federal regulations require that the scope of the disclosures be limited to the information necessary to carry out the purpose of the disclosures. (42 CFR, 2.13(a))
- vii. The participant must be advised, orally and in writing, that federal law protects the confidentiality of treatment records. The notice must cite Section 290dd-2 and the implementing regulations (Sections 2.1 through

2.67 of Title 42 of the code of Federal Regulations), and must state the following:

- Treatment information is ordinarily kept confidential;
  - It is a crime to violate this confidentiality requirement, which the participant may report to appropriate authorities;
  - Notwithstanding this confidentiality requirement, covered information may be released under specified circumstances (which should be listed for the participant); and
  - Federal law does not protect information relating to crimes committed on the premises of the program, crimes against program personnel, or the abuse or neglect of a child.
- viii. Any documented treatment information distributed on the basis of the treatment participant's consent should be accompanied by a Notice of Prohibition Against Redisclosure. (42 CFR, Section 2.32)
- ix. Treatment courts may not disclose protected health information in response to a subpoena or a search warrant or any other form of request, even if signed by a judge, unless that client signs a consent form authorizing such disclosure, or a court of competent jurisdiction enters an authorizing order under the standards set forth in the Federal regulations. (42 CFR, Section 2.61)
- x. Confidential records should be kept in a secure room and locked container. Access to confidential records must be limited to authorized individuals. (42 CFR, Section 2.16)

### ***b. Best Practices***

- i. Drug court planning teams are familiar with relevant federal and state laws and regulations in order to develop appropriate policies and procedures.
- Because drug court programs are integrally involved with supervising the participation of drug offenders in substance abuse treatment, the programs must take into account federal requirements as well as applicable state laws. (Holland, 1999)
- ii. Confidential records are protected after consent expires or is revoked.
- All file storage systems include procedures for limiting access to records after the participant's consent expires or is revoked. Thus, paper records that can be accessed by all drug court personnel during the duration of the participant's consent are transferred to a more restricted storage facility as soon as the consent is terminated. Records on computers are sealed by changing the password or other access. (Tauber, Weinstein, & Taube, 1999)

- iii. **Treatment courts adopt written procedures and/or policies, which regulate and control access to and use of written and electronic confidential records. Written procedures include requests for access to confidential information by the public, attorneys, or any interested party outside the treatment court team. (Meyer, 2011)**
- iv. **Treatment courts establish a memorandum of understanding (MOU) on confidentiality and have all team members and replacement team members sign and agree to follow confidentiality procedures. (Tauber, Weinstein, & Taube, 1999)**
- v. **Electronic data that is subject to confidentiality standards is protected by security walls and password-protected. Access is limited, and disclosure/re-disclosure is subject to approval by the treatment court judge and team. (Tauber, Weinstein, & Taube, 1999)**
- vi. **Pre-court staffing meetings may be closed to participants and the public. (State of Washington v. Sykes, 2014) If open, compliance with consent requirements must be obtained.**
- vii. Treatment courts receive training on federal confidentiality requirements and how they affect treatment court practitioners and contractors. (Meyer, 2011)
- viii. Treatment courts designate a team member as their confidentiality compliance officer. The confidentiality compliance officer should be aware of, and consulted about, all third-party inquiries pertaining to mandated disclosures and permitted disclosures the federal regulations. (Meyer, 2011)

### ***c. Promising Practices***

- i. Each team considers instituting video permission for consent.
- ii. Treatment courts receive training on federal confidentiality requirements and how they affect treatment court practitioners and contractors.
- iii. Review hearings are indicated on dockets as judicial review hearings and not as drug court hearings. This should apply to all printed versions of the docket.
- iv. Treatment courts do not require a written consent and notice form for treatment court visitors and observers.
- v. Non-treatment court staff are advised as to treatment court confidentiality requirements.

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# Chapter 4: Due Process

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This chapter addresses procedural due process in drug court. Some information in this chapter can also be found in Chapter 3 (Confidentiality); chapters 3 and 4 should be read and considered together. Specific information in this chapter includes the participant waiver of rights, the 1st Amendment, 4th Amendment, and 14th Amendment, as well as sanctions and termination. Additionally, links to individual sections of the Michigan Drug Court Statue can be found [here](#). Please also see the [Michigan Court Rules](#) and [Code of Judicial Conduct](#).

In order for a program to become a certified drug court, it must comply with all of the standards and required best practices in this chapter. All standards and required best practices are in bold.

## 1. GENERAL

### *a. Standards*

- i. **A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:**
  - **Use of a nonadversarial approach by prosecution and defense that promotes public safety while protecting any participant’s due process rights. (MCL 600.1060(c)(ii))**
- ii. **The drug treatment court may require an individual admitted into the court to pay a reasonable drug court fee that is reasonably related to the cost to the court for administering the drug treatment court program as provided in the memorandum of understanding. (MCL 600.1070(4))**
  - Courts can use the [SCAO Drug Court Fee Calculator](#) to help determine what a reasonable fee would be. This calculator should be used only as a guide to help determine a program fee; it is not intended to determine an exact or required amount. Courts can determine the amount of the fee as it is reasonably related to the cost for administering the drug treatment court program.

## 2. WAIVER OF RIGHTS

### *a. Standards*

- i. **Before an individual is admitted into a drug treatment court, the court shall find on the record or place a statement in the court file pertaining to... the individual understands the consequences of entering the drug**

- treatment court and agrees to comply with all court orders and requirements of the court's program. (MCL 600.1066(b))
- ii. If the individual being considered for admission to a drug treatment court is charged in a criminal case, or in the case of a juvenile, is alleged to have engaged in activity that would constitute a criminal act if committed by an adult, his or her admission is subject to all of the following conditions:
- The individual must waive, in writing, the right to a speedy trial, the right to representation at drug court treatment review hearings by an attorney, and, with the agreement of the prosecutor, the right to a preliminary examination. (MCL 600.1068(1)(c))
  - The individual must sign a written agreement to participate in the drug treatment court. (MCL 600.1068(1)(d))
- iii. The surrendering of any rights by the participant must be done knowingly, voluntarily, and intelligently. (Kelly v Allegan Circuit Judge, 1969)

### **3. 1ST AMENDMENT**

#### ***a. Standards***

- i. The mandating of an individual to attend Alcoholics Anonymous/Narcotics Anonymous (AA/NA) is a violation of the 1st Amendment Establishment Clause prohibitions. The 1st Amendment applies to the states via the 14th Amendment of the U.S. Constitution. (Hanas v Inner City Christian Outreach, 2008)
- ii. Drug court review hearings must be held open to the public.
- Although the 6th Amendment right "is the right of the accused," a member of the public can invoke the right to a public trial under the 1st Amendment. (United States Constitution, 1st Amendment and 6th Amendment)
  - The sittings of every court within this state shall be public except that a court may, for good cause shown, exclude from the courtroom other witnesses in the case when they are not testifying and may, in actions involving scandal or immorality, exclude all minors from the courtroom unless the minor is a party or witness. This section shall not apply to cases involving national security. (MCL 600.1420)
  - The party seeking to close the hearing must advance an overriding interest that is likely to be prejudiced, the closure must be no

**broader than necessary to protect that interest, the trial court must consider reasonable alternatives to closing the proceeding, and it must make findings adequate to support the closure. (People v Vaughn, 2012)**

- ii. **Drug court conditions of participation, such as area and association restrictions, must be reasonable and must be narrowly drawn.**
  - **Analogizing to probation conditions in MCL 771.3(3)), “...a sentencing court must be guided by factors that are lawfully and logically related to the defendant’s rehabilitation.” (People v Johnson (Larry), 1995)**

### ***b. Best Practices***

- i. **If it is appropriate and beneficial to order 12-step self-help programs, offenders who object to the deity-based 12-step programs cannot be ordered to attend them. In those instances, secular alternatives must be made available. (Meyer, 2011)**

## **4. 4TH AMENDMENT**

### ***a. Best Practices***

- i. The drug court conducts home visits on participants, without reasonable suspicion, as part of a standard monitoring program.
  - Home visits are a critical function of community supervision. (Harberts, 2011)
  - Home visits as a condition of probation in the absence of reasonable suspicion are justified. (United States vs Reyes, 2002)
  - “[A] home visit is not a search, even though a visit may result in seizure of contraband in plain view.” (United States v Newton, 2002)<sup>3</sup>
- ii. A waiver against unreasonable searches and seizures may be made as a condition of probation.
  - Analogizing to probation law, “a waiver of one’s constitutional protections against unreasonable searches and seizures may properly be made a condition of a probation order where the waiver is reasonably tailored to a defendant’s rehabilitation.” (People v Hellenthal, 1990) (MCL 791.236(19))
  - A warrantless search of a probationer’s home by a probation officer who had reasonable suspicion was upheld based on a ‘special needs’ balancing test. (Griffin v Wisconsin, 1987)

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<sup>3</sup> See also United States v Tessier, U.S. Court of Appeals, Sixth Circuit (02/18/16), citing with favor Reyes, supra; United States v LeBlanc, 490 F3d 361, 370 (5th Cir. 2007) cases upholding less invasive “home visits” where there was no reasonable suspicion.

## **5. 14TH AMENDMENT**

### ***a. Standards***

- i. There are objective standards that require recusal when “the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable.” (*Withrow v Larkin*, 1975)
- ii. Disqualification of a judge is warranted for reasons that include, but are not limited to, the following:
  - The judge is biased or prejudiced for or against a party or attorney. (MCR 2.003(C)(1)(a))
  - The judge, based on objective and reasonable perceptions, has either (i) a serious risk of actual bias impacting the due process rights of a party as enunciated in *Caperton v Massey*, [556 US 868]; 129 S Ct 2252; 173 L Ed 2d 1208 (2009), or (ii) has failed to adhere to the appearance of impropriety standard set forth in Canon 2 of the Michigan Code of Judicial Conduct. (MCR 2.003(C)(1)(b))
  - The judge has personal knowledge of disputed evidentiary facts concerning the proceeding. (MCR 2.003(C)(1)(c))
- iii. No individual has a right to be admitted into a drug treatment court. (MCL 600.1064(1))
- iv. Participation in a drug court is not a fundamental right, and drug offenders are not part of any suspect or semi-suspect class. (*Lamont v State*, 2006)<sup>4</sup>

## **6. SANCTIONS AND TERMINATION**

### ***a. Best Practices***

- i. By analogy to due process requirements in termination from probation, as supported by several state supreme courts that have ruled on drug court terminations, and in compliance with the probation violation rulings of *Gagnon v Scarpelli*, 411 U.S. 778, 93 S.Ct. 1756, 36 L.Ed.2d 656 (1973; and *People v Belanger*, 227 Mich App 637 (1998), a drug treatment court termination should meet the requirements under MCR 6.445 Probation Revocation.
- ii. A sanction that implicates a liberty interest requires procedural protections under due process. This complies with Michigan law that indicates a jail sentence affects a participant’s liberty interest (*People v*

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<sup>4</sup> Analysis is under a rational basis equal protection test, see *State v Harner*, 103 P3d 738 (Wash 2004).

Jackson, 168 Mich App 280 (1988)) and Michigan probation case law, which holds that an ex parte order that adds a condition of probation that implicates a liberty interest requires, at the least, certain procedural protections under the due process clause (People v Jackson, supra; Vitek v Jones, 445 U.S. 480 (1980)).

iii. By analogy to Michigan probation case law, treatment court termination hearings and sanction hearings involving a ‘liberty interest’ may be summary and informal, MCL 771.4; People v Pillar, 233 Mich App 267 (1998). Therefore, due process would require that, like a probation violation hearing, rudimentary due process rights are provided:<sup>5</sup>

- Written copy of charges.
- Appointment of interpreters.
- A hearing equivalent to an arraignment to advise of the allegations.
- An opportunity to admit or deny the allegations.
- Admission (plea) meets the due process requirements for termination from the program as long as the respondent was advised of termination from the program as a consequence.

In the absence of an admission, a hearing with the following procedural rights is required when the hearing involves a liberty interest:

- The moving party has the burden to prove by a preponderance of evidence that one or more allegations in the charging document are true.
- A record of the hearing should be made.
- Like probation revocation, the respondent shall be afforded the opportunity to have an attorney.
- The respondent shall have a right to be heard, present evidence, and cross examine.

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<sup>5</sup> For a detailed analyses of due process rights for probationers, see *In Re: Leroy Jackson*, 63 Mich App 241 (1975), *Gagnon v Scarpelli*, 411 US 778 (1973). The respondent would not be entitled like a probationer to the entire realm of due process such as jury trial or proof beyond a reasonable doubt. *Samson v Calif*, 547 US 843 (2006).

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- Withrow v Larkin, 421 U.S. 35, 47, 95 S.Ct. 1456, 43 L.Ed.2d 712 (United States Supreme Court 1975).

# Chapter 5: The Drug Court Team

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This chapter discusses the various members on a drug court team and the importance of collaboration among those members. Specific topics include team composition, roles of team members, participation in staffing meetings and review hearings, and communication and decision-making. The role of the judge, specifically, is the topic of Chapter 1 of this manual. Confidentiality is mentioned briefly here, but discussed in detail in Chapter 4. Various members of the team work to ensure participants' due process rights are protected; best practices regarding due process are discussed in Chapter 4. Teams should also engage in training as a team; training and education are discussed in Chapter 9.

In order for a program to become a certified drug court, it must comply with all of the standards and required best practices in this chapter. All standards and required best practices are in bold.

## 1. TEAM COMPOSITION

### *a. Standards*

- i. **A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:**
  - **Use of a nonadversarial approach by prosecution and defense that promotes public safety while protecting participant's due process rights. (MCL 600.1060(c)(i))**
  - **Continued interdisciplinary education in order to promote effective drug court planning, implementation, and operation. (MCL 600.1060(c)(ix))**
  - **The forging of partnerships among other drug courts, public agencies, and community-based organizations to generate local support. (MCL 600.1060(c)(x))**
- ii. **The circuit court in any judicial circuit or the district court in any judicial district may adopt or institute a drug treatment court pursuant to statute or court rules. However, if the drug treatment court will include in its program individuals who may be eligible for discharge and dismissal of an offense, delayed sentence, or deviation from the sentencing guidelines, the circuit or district court shall not adopt or institute the drug treatment court unless the circuit or district court enters into a memorandum of understanding with each participating prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, and a representative or representatives of**

community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit or district, the local substance abuse coordinating agency for that circuit or district, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit or district. The memorandum of understanding shall describe the role of each party. (MCL 600.1062(1))

- iii. The family division of circuit court in any judicial circuit may adopt or institute a juvenile drug treatment court pursuant to statute or court rules. However, if the drug treatment court will include in its program individuals who may be eligible for discharge or dismissal of an offense, or a delayed sentence, the family division of circuit court shall not adopt or institute a juvenile drug treatment court unless the family division of circuit court enters into a memorandum of understanding with each participating county prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar specializing in juvenile law, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit, the local substance abuse coordinating agency for that circuit, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit. The memorandum of understanding shall describe the role of each party. A juvenile drug treatment court is subject to the same procedures and requirements provided in this chapter for drug treatment courts created under subsection (1), except as specifically provided otherwise in this chapter. (MCL 600.1062(2))
- iv. The drug treatment court shall cooperate with, and act in a collaborative manner with, the prosecutor, defense counsel, treatment providers, the local substance abuse coordinating agency for that circuit or district, probation departments, and, to the extent possible, local law enforcement, the department of corrections, and community corrections agencies. (MCL 600.1070(3))

## ***b. Best Practices***

- i. **A dedicated multidisciplinary team of professionals manages the day-to-day operations of the drug court, including reviewing participant progress during pre-court staff meetings and status hearings, contributing observations and recommendations within the team members' respective areas of expertise, and overseeing the delivery of legal, treatment, and supervision services. (National Association of Drug Court Professionals, 2015)**
- ii. The drug court team comprises representatives from all partner agencies involved in creating the program, including but not limited to a judge or judicial officer, program coordinator, prosecutor, defense counsel representative, treatment representative, community supervision officer, and law enforcement officer.
  - Drug courts enjoy significantly greater reductions in recidivism and significantly higher cost savings when all of the above-mentioned team members regularly participate in staffing meetings and review hearings. (Carey, Mackin, & Finigan, 2012) (Cissner, et al., 2013)
  - When law enforcement is a member of the drug court team, drug courts can reduce recidivism by 87 percent and increase cost savings by 44 percent. (Carey, Mackin, & Finigan, 2012)

## ***c. Promising Practices***

- i. An independent evaluator serves as a member of the drug court team.
  - The evaluator is responsible for developing reliable and valid methodologies to study the effectiveness of the drug court. It is necessary for all drug courts to regularly evaluate program effectiveness. This is primarily done through three evaluations: process, outcome, and cost-benefit. While an evaluator is an essential team member of any drug court, it is not necessarily a position for a full-time employee in every program. Instead, the role can be filled at the regional or local level. The evaluator, while generally considered a part of the drug court team, does not participate in drug court team reviews as it compromises the objectivity of the evaluator and the integrity of the evaluation process. (Minnesota Supreme Court, 2006)
  - Courts should consider partnering with local colleges or universities to find a qualified evaluator.
- ii. The drug court communicates with a medical doctor, particularly one with a specialty in addictionology and especially for those drug courts using medication-assisted treatment.

## **2. STAFFING MEETINGS AND REVIEW HEARINGS**

### ***a. Standards***

- i. A drug court shall provide a drug court participant with all of the following:**
  - **Consistent, continual, and close monitoring of the participant and interaction among the court, treatment providers, probation, and the participant. (MCL 600.1072(a))**
  - **Periodic evaluation assessments of the participant's circumstances and progress in the program. (MCL 600.1072(c))**
- ii. All court proceedings under the Michigan drug court statute shall be open to the public. (MCL 600.1076(9))**

### ***b. Best Practices***

- i. Team members consistently attend pre-court staff meetings to review participant progress, determine appropriate actions to improve outcomes, and prepare for status hearings in court.**
  - When all team members consistently attend staffing meetings, drug courts can lower recidivism by 50 percent, and are nearly twice as cost-effective as those programs where not all team members attend. (Carey, Mackin, & Finigan, 2012)
  - When a representative from treatment attended staffing meetings, recidivism was reduced by 105 percent. (Carey, Mackin, & Finigan, 2012)
- ii. Team members attend status hearings on a consistent basis. During the status hearings, team members contribute relevant information or recommendations when requested by the judge or as necessary to improve outcomes or protect participants' legal rights.**
  - Drug courts were able to significantly reduce recidivism and improve cost-savings when the judge, attorneys, treatment, probation, and coordinator all attended status review hearings. (Carey, Mackin, & Finigan, 2012)
  - When a representative from treatment attended status review hearings, recidivism was reduced 100 percent over drug courts that did not have a treatment representative attend. (Carey, Mackin, & Finigan, 2012)
  - When a law enforcement officer attended status review hearings, recidivism was reduced 83 percent over drug courts that did not have a law enforcement officer attend. (Carey, Mackin, & Finigan, 2012)

### ***c. Promising Practices***

- i. When pre-court staffing meetings are closed to the participant and the public, the participant should be notified in the drug court agreement and waiver.

## **3. COMMUNICATION AND DECISION MAKING**

### ***a. Standards***

- i. **The judge is the final arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.**
  - **The judicial power of the state is vested exclusively in one court of justice, which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction. (Michigan Constitution, Article VI, Section 1)**
  - **In order to continue to participate in and successfully complete a drug treatment court program, an individual shall make all payments ordered pursuant to MCL 600.1074 (1)(a-d) and comply with all court orders, violations of which may be sanctioned at the court's discretion. (MCL 600.1074(1)(e))**
  - **The drug treatment court must be notified if the participant is accused of a new crime, and the judge shall consider whether to terminate the participant's participation in the drug treatment program in conformity with the memorandum of understanding under section 1062. If the participant is convicted of a felony for an offense that occurred after the defendant is admitted to drug treatment court, the judge shall terminate the participant's participation in the program. (MCL 600.1074(2))**
- ii. **If the court determines that scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise if (1) the testimony is based on sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case. (Michigan Rules of Evidence, Rule 702)**
  - **Information relating to addiction and substance abuse treatment is typically beyond the knowledge of laypersons, so this information**

must usually be introduced by a qualified expert. (National Association of Drug Court Professionals, 2015)

## ***b. Best Practices***

- i. Team members share information as necessary to appraise participants' progress in treatment and compliance with the conditions of drug court. Partner agencies execute memoranda of understanding specifying what information will be shared among team members.**
  - Several studies have indicated that participants and staff alike rate communication among team members as one of the most important factors for success in drug court. (National Association of Drug Court Professionals, 2015)
  - Please also see Chapter 3, Confidentiality for information on appropriate scope for information sharing.
- ii. Team members contribute relevant insights, observations, and recommendations based on their professional knowledge, training, and experience. The judge should consider all team members' perspectives before making decisions that affect participants' welfare or liberty interests, and should explain the rationale for such decisions to team members and participants.**
  - Studies in more than 10 drug courts found that implementing a model designed to improve team communication skills increased job satisfaction and improved program measures such as admission rates, wait times for treatment, and no-show rates.<sup>6</sup> (National Association of Drug Court Professionals, 2015)

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<sup>6</sup> For more information on the suggested model, the Network for the Improvement of Addiction Treatment's Organizational Improvement Model, please see page 45 of *Adult Drug Court Best Practice Standards Volume 2*, published by the National Association of Drug Court Professionals. The model seeks to create an environment where all team members are able to share differing views in a way that is likely to be heeded by others on the team.

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# *Chapter 6: Drug Court Population and Admission*

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This chapter discusses screening and eligibility criteria for drug courts. It can be used to ensure that programs are targeting the proper population among offenders. Specific topics include screening, eligible offenses, assessments, admission to the program and legal outcomes, and transferring supervision. Drug courts can use this chapter to address their target population, screening and assessment practices, program eligibility requirements, and admission practices.

In order for a program to become a certified drug court, it must comply with all of the standards and required best practices in this chapter. All standards and required best practices are in bold.

## **1. SCREENING**

### *a. Standards*

- i. **To be admitted to a drug treatment court, an individual must cooperate with and complete a preadmissions screening and evaluation assessment and must agree to cooperate with any future evaluation assessment as directed by the drug treatment court. A preadmission screening and evaluation assessment shall include all of the following:**
  - **A complete review of the individual's criminal history, and a review of whether or not the individual has been admitted to and has participated in or is currently participating in a drug treatment court, whether admitted under this act or under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the results of the individual's participation. A review of the law enforcement information network may be considered sufficient for purposes of this subdivision unless a further review is warranted. The court may accept other verifiable and reliable information from the prosecution or defense to complete its review and may require the individual to submit a statement as to whether or not he or she has previously been admitted to a drug**

treatment court and the results of his or her participation in the prior program or programs. (MCL 600.1064(3)(a))

- An assessment of the risk of danger or harm to the individual, others, or the community. (MCL 600.1064(3)(b))
- ii. The court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to an individual applicant's criminal history for the purposes of determining an individual's admission into the drug treatment court and general criminal history review, including whether the individual has previously been admitted to and participated in a drug treatment court under this act, or under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the results of the individual's participation. The department of state police shall provide the information requested by a drug treatment court under this subsection. (MCL 600.1064(5))

### ***b. Best Practices***

- i. Use clinical assessments instead of screening tools to determine diagnoses.
  - Substance abuse screening tools do not accurately identify diagnoses. (Greenfield & Hennessy, 2008)

## **2. ELIGIBLE OFFENSES**

### ***a. Standards***

- i. “Violent offender” means an individual who meets either of the following criteria:
  - Is currently charged with or has pled guilty to, or, if a juvenile, is currently alleged to have committed or has admitted responsibility for, an offense involving the death of or a serious bodily injury to any individual, or the carrying, possessing, or use of a firearm or other dangerous weapon by that individual, whether or not any of these circumstances are an element of the offense, or is criminal sexual conduct of any degree. (MCL 600.1060(g)(i))

- Has 1 or more prior convictions for, or, if a juvenile, has 1 or more prior findings of responsibility for, a felony involving the use or attempted use of force against another individual with the intent to cause death or serious bodily harm. (MCL 600.1060(g)(ii))
- ii. Each drug treatment court shall determine whether an individual may be admitted to the drug treatment court. No individual has a right to be admitted into a drug treatment court. However, an individual is not eligible for admission into a drug treatment court if he or she is a violent offender. (MCL 600.1064(1))
- iii. In addition to admission to a drug treatment court under this act, an individual who is eligible for admission pursuant to this act may also be admitted to a drug treatment court under any of the following circumstances:
  - The individual has been assigned the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11. (MCL 600.1064(2)(a))
  - The individual has had criminal proceedings against him or her deferred and has been placed on probation under any of the following:
    - a. Section 7411 of the public health code, 1978 PA 368, MCL 333.7411. (MCL 600.1064(2)(b)(i))
    - b. Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a. (MCL 600.1064(2)(b)(ii))
    - c. Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430. (MCL 600.1064(2)(b)(iii))
    - d. Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a. (MCL 600.1064(2)(b)(iv))
- iv. Ignition Interlock Restricted Driver License: In order to be considered for placement in the pilot project or program, an individual must have been convicted of either of the following:
  - Two or more convictions for violating section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or a local ordinance of this state substantially corresponding to section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625. (MCL 600.1084(3)(a))
  - One conviction for violating section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or a local ordinance of this state substantially corresponding to section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, preceded by 1 or more convictions for violating a local ordinance or law of

another state substantially corresponding to section 625(1), (3), or (6) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or a law of the United States substantially corresponding to section 625(1), (3), or (6) of the Michigan vehicle code, 1949 PA 300, MCL 257.625. (MCL 600.1084(3)(b))

### ***b. Best Practices***

- i. The drug court allows charges other than substance use or possession.**
  - If drug courts do not serve individuals whose future crimes are likely to involve high victimization or incarceration costs, the drug court's cost savings are minimal because the investment costs of treatment are not outweighed by the reduction in recidivism achieved through drug court. (Downey & Roman, 2010).
  - Drug court participants who self-report that they sold drugs perform as well as other participants in drug court programs. (Marlowe, Festinger, Dugosh, Arabia, & Kirby, 2008).

## **3. CLINICAL SUBSTANCE USE AND MENTAL HEALTH ASSESSMENTS**

### ***a. Standards***

- i. To be admitted to a drug treatment court, an individual must cooperate with and complete a preadmissions screening and evaluation assessment and must agree to cooperate with any future evaluation assessment as directed by the drug treatment court. A preadmission screening and evaluation assessment shall include all of the following:**
  - As much as practicable, a complete review of the individual's history regarding the use or abuse of any controlled substance or alcohol and an assessment of whether the individual abuses controlled substances or alcohol or is drug or alcohol dependent. It is the intent of the legislature that this assessment should be a clinical assessment as much as practicable. (MCL 600.1064(3)(c))
  - A review of any special needs or circumstances of the individual that may potentially affect the individual's ability to receive substance abuse treatment and follow the court's orders. (MCL 600.1064(3)(c))
  - For a juvenile, an assessment of the family situation including, as much as practicable, a comparable review of any guardians or parents. (MCL 600.1064(3)(e))

- ii. **A drug treatment court may hire or contract with licensed or accredited treatment providers, in consultation and cooperation with the local substance abuse coordinating agency, and other such appropriate persons to assist the drug treatment court in fulfilling its requirements under this chapter, such as the investigation of an individual's background or circumstances, or the clinical evaluation of an individual, for his or her admission into or participation in a drug treatment court. (MCL 600.1063)**

### ***b. Best Practices***

- i. **Clinical assessments use validated tools.**
  - The predictive criterion validity of actuarial assessments of major risk and/or need factors greatly exceeds the validity of unstructured clinical judgment. (Andrews, Bonta, & Wormith, 2006).
  - Drug courts that use better assessment practices have better outcomes (Shaffer, 2010).
- ii. Drug courts exclude participants with serious mental health issues.
  - Drug courts that accept participants with serious mental health issues are less cost effective than drug courts that do not, and are no more effective in reducing recidivism than those that do not. (Carey, Mackin, & Finigan, 2012)

## **4. RISK AND NEED ASSESSMENT**

### ***a. Best Practices***

- i. **The drug court program accepts participants that are both high risk and high need.**
  - Drug courts that focus on high-risk and high-need participants reduce crime nearly twice as much as those focusing on less serious participants. (Lowenkamp, Holsinger, & Latessa, 2005)
- ii. **Use a standardized risk and needs assessment to identify the expected likelihood of a particular outcome (e.g., recidivism) over a specified period of time (e.g., one year) for an individual.**
  - Standardized assessment tools are reliable and valid with regard to identifying those who are likely to succeed on probation. (Miller & Shutt, 2001)
  - Providing substance abuse treatment to low-risk offenders can lead to higher rates of recidivism. (Lowenkamp & Latessa, 2004)

- Exposing low-risk or low-need participants to high-risk or high-need offenders in residential facilities or treatment groups can make their outcomes worse by introducing them to antisocial peers and disrupting their prosocial activities, such as work. (Lowenkamp & Latessa, 2004)
- iii. Ensure that the validation sample of the risk and needs assessment is similar to the drug court's population.
  - Different racial or ethnic groups interpret the same assessment questions differently. (Carle, 2009)
  - Males and females show differences in the prediction of substance use dependence. (Perez & Wish, 2011)
  - DWI offenders require different assessments than drug court offenders. (Vlavianos, Floerke, Harrison, & Carey, 2015)
- iv. Reexamine dynamic risk factors after program admission.
  - Assessments completed within the month preceding the participant's failure have greater accuracy than ones done much earlier. (Lloyd, Hanson, & Serin, 2015)

### ***b. Promising Practices***

- i. The National Drug Court Institute published a [Drug Court Practitioner Fact Sheet](#) that provides recommended tools regarding selecting and using risk and need assessments.

## **5. LEGAL OUTCOME**

### ***a. Standards***

- i. **The circuit court in any judicial circuit or the district court in any judicial district may adopt or institute a drug treatment court, pursuant to statute or court rules. However, if the drug treatment court will include in its program individuals who may be eligible for discharge and dismissal of an offense, delayed sentence, or deviation from the sentencing guidelines, the circuit or district court shall not adopt or institute the drug treatment court unless the circuit or district court enters into a memorandum of understanding with each participating prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other**

prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit or district, the local substance abuse coordinating agency for that circuit or district, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit or district. The memorandum of understanding shall describe the role of each party. (MCL 600.1062(1))

- ii. The family division of circuit court in any judicial circuit may adopt or institute a juvenile drug treatment court, pursuant to statute or court rules. However, if the drug treatment court will include in its program individuals who may be eligible for discharge or dismissal of an offense, or a delayed sentence, the family division of circuit court shall not adopt or institute a juvenile drug treatment court unless the family division of circuit court enters into a memorandum of understanding with each participating county prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar specializing in juvenile law, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit, the local substance abuse coordinating agency for that circuit, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit. The memorandum of understanding shall describe the role of each party. A juvenile drug treatment court is subject to the same procedures and requirements provided in this chapter for drug treatment courts created under subsection (1), except as specifically provided otherwise in this chapter. (MCL 600.1062(2))
- iii. In the case of an individual who will be eligible for discharge and dismissal of an offense, delayed sentence, or deviation from the sentencing guidelines, the prosecutor must approve of the admission of the individual into the drug treatment court in conformity with the memorandum of understanding under section 1062. (MCL 600.1068(2))
- iv. An individual shall not be admitted to, or remain in, a drug treatment court pursuant to an agreement that would permit a discharge or dismissal of a traffic offense upon successful completion of the drug treatment court program. (MCL 600.1068(3))

## **6. ADMISSION FACTORS**

### ***a. Standards***

- i. If the individual being considered for admission to a drug treatment court is charged in a criminal case or, in the case of a juvenile, is alleged to have engaged in activity that would constitute a criminal act if committed by an adult, his or her admission is subject to all of the following conditions:**
  - The offense or offenses allegedly committed by the individual must be related to the abuse, illegal use, or possession of a controlled substance or alcohol. (MCL 600.1068(1)(a))**
  - The individual, if an adult, must plead guilty to the charge or charges on the record. The individual, if a juvenile, must admit responsibility for the violation or violations that he or she is accused of having committed. (MCL 600.1068(1)(c))**
  - The individual must waive, in writing, the right to a speedy trial, the right to representation at drug treatment court review hearings by an attorney, and, with the agreement of the prosecutor, the right to a preliminary examination. (MCL 600.1068(1)(c))**
  - The individual must sign a written agreement to participate in the drug treatment court. (MCL 600.1068(1)(d))**
- ii. In addition to rights accorded a victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the drug treatment court must permit any victim of the offense or offenses of which the individual is charged, any victim of a prior offense of which that individual was convicted, and members of the community in which either the offenses were committed or in which the defendant resides to submit a written statement to the court regarding the advisability of admitting the individual into the drug treatment court. (MCL 600.1068(4))**
- iii. An individual who has waived his or her right to a preliminary examination and has pled guilty or, in the case of a juvenile, has admitted responsibility, as part of his or her application to a drug treatment court and who is not admitted to a drug treatment court, shall be permitted to withdraw his or her plea and is entitled to a preliminary examination or, in the case of a juvenile, shall be permitted to withdraw his or her admission of responsibility. (MCL 600.1068(5))**

## ***b. Best Practices***

### **i. Use only objective criteria when determining suitability for drug court.**

- Subjective screenings after determining legal and clinical eligibility for the drug court program have no beneficial impact on drug court graduation rates or post-program recidivism. (Carey & Perkins, 2008)
- Eliminating subjective screening results in cost savings. (Bhati, Roman, & Chalfin, 2008)

## **7. FINDINGS ON THE RECORD OR IN THE COURT FILE**

### ***a. Standards***

#### **i. Before an individual is admitted into a drug treatment court, the court shall find on the record, or place a statement in the court file pertaining to, all of the following:**

- The individual is dependent upon or abusing drugs or alcohol and is an appropriate candidate for participation in the drug treatment court. (MCL 600.1066(a))
- The individual understands the consequences of entering the drug treatment court and agrees to comply with all court orders and requirements of the court's program and treatment providers. (MCL 600.1066(b))
- The individual is not an unwarranted or substantial risk to the safety of the public or any individual, based upon the screening and assessment or other information presented to the court. (MCL 600.1066(c))
- The individual is not a violent offender. (MCL 600.1066(d))
- The individual has completed a preadmission screening and evaluation assessment under section 1064(3) and has agreed to cooperate with any future evaluation assessment as directed by the drug treatment court. (MCL 600.1066(e))
- The individual meets the requirements, if applicable, under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or

section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430. (MCL 600.1066(f))

- The terms, conditions, and the duration of the agreement between the parties, especially as to the outcome for the participant of the drug treatment court upon successful completion by the participant or termination of participation. (MCL 600.1066(g))

## **8. PROGRAM ENTRY**

### ***a. Best Practices***

- i. Expedite the court process to quickly accept participants into the drug court.
  - When the time between arrest and program entry is 50 days or less, programs see reductions in recidivism. (Carey, Mackin, & Finigan, 2012)

## **9. TRANSFERRING SUPERVISION**

### ***a. Standards***

- i. A court that has adopted a drug treatment court pursuant to this section may accept participants from any other jurisdiction in this state based upon either the residence of the participant in the receiving jurisdiction or the unavailability of a drug treatment court in the jurisdiction where the participant is charged. The transfer is not valid unless it is agreed to by all of the following:
  - The defendant or respondent. (MCL 600.1062(4)(a))
  - The attorney representing the defendant or respondent. (MCL 600.1062(4)(b))
  - The judge of the transferring court and the prosecutor of the case. (MCL 600.1062(4)(c))
  - The judge of the receiving drug treatment court and the prosecutor of a court funding unit of the drug treatment court. (MCL 600.1062(4)(d))

## ***b. Promising Practices***

- i. Use the State Court Administrative Office's recommended procedure to transfer supervision.
  - [Administrative Memorandum 2015-01](#) identifies step-by-step procedures for transferring supervision to a problem-solving court (Administrative Memoranda, 2015).
  - The SCAO provides a [Frequently Asked Questions](#) document to assist courts in dealing with transfers.

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# Chapter 7: Drug and Alcohol Testing

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This chapter discusses the standards, best practices, and promising practices involved in operating a strong drug and alcohol testing program in drug court. Specific topics include randomization, frequency, methods for collection and testing, the use of scientific information, and chain of custody. In addition to following these standards and best practices, courts should consult the *Ten Principles of a Good Testing Program*, promulgated by the National Drug Court Institute and available in Appendix A of this manual. The Michigan Association of Treatment Court Professionals published [\*Drug Testing for Criminal Justice Involved Individuals in Michigan\*](#) as a reference for drug courts. It was developed and authored by a statewide committee on drug testing standards.

In order for a program to become a certified drug court, it must comply with all of the standards and required best practices in this chapter. All standards and required best practices are in bold.

## 1. GENERAL

### *a. Standards*

- i. **A drug treatment court shall provide a drug court participant with all of the following:**
  - **Consistent, continual, and close monitoring of the participant and interaction among the court, treatment providers, probation, and the participant. (MCL 600.1072(1)(a))**
  - **Mandatory periodic and random testing for the presence of any controlled substance or alcohol in a participant's blood, urine, or breath, using to the extent practicable the best available, accepted, and scientifically valid methods. (MCL 600.1072(1)(b))**
  - **Periodic evaluation assessments of the participant's circumstances and progress in the program. (MCL 600.1072(1)(c))**
- ii. **Any statement or other information obtained as a result of participating in an assessment, treatment, or testing while in a drug treatment court is confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use. (MCL 600.1072(2))**

## **2. RANDOMIZATION**

### ***a. Standards***

- i. A drug treatment court shall provide a drug court participant with all of the following... mandatory periodic and random testing for the presence of any controlled substance or alcohol in a participant's blood, urine, or breath, using to the extent practicable the best available, accepted, and scientifically valid methods. (MCL 600.1072(1)(b)) (Emphasis added)

### ***b. Best Practices***

- i. The probability of being tested on weekends and holidays is the same as other days.
  - Weekends and holidays are high-risk times for drug and alcohol use. Providing a respite from detection during these high-risk times reduces the randomness of testing and undermines the central aims of a drug-testing program. (Kirby, Lamb, Iguchi, Husband, & Platt, 1995) (Marlatt & Gordon, 1985) (American Society of Addiction Medicine, 2013)
- ii. Urine tests are delivered no more than eight hours after a participant is notified that a test has been scheduled. (National Association of Drug Court Professionals, 2015) (Auerbach, 2007)
- iii. Tests with short detection window such as oral fluid tests should be delivered no more than four hours after being notified that a test was scheduled. (National Association of Drug Court Professionals, 2015)

## **3. FREQUENCY AND BREADTH OF TESTING**

### ***a. Standards***

- i. A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:
  - Monitoring of participants effectively by frequent alcohol and other drug testing to ensure abstinence from drugs or alcohol. (MCL 600.1060(c)(v)) (Emphasis added)

## ***b. Best Practices***

- i. Urine testing is performed at least twice per week until participants are in the last phase of the program and preparing for graduation.**
  - In a multisite study of approximately 70 drug courts, programs performing urine testing at least twice per week in the first phase lowered recidivism by 38 percent and were 61 percent more cost-effective than programs testing less frequently. (Carey, Mackin, & Finigan, What works? The ten key components of drug court: Research-based best practices., 2012)
  - The most effective drug courts perform urine drug testing at least twice per week for the first several months of the program. (Carey & Perkins, 2008)
- ii. Test specimens are examined for all unauthorized substances of abuse that are suspected to be used by drug court participants. Randomly selected specimens are tested periodically for a broader range of substances to detect new substances of abuse that might be emerging in the drug court population.**
  - Participants can easily evade detection of their substance use by switching to drugs that have similar effects but are not detected by the test. (American Society of Addiction Medicine, 2013)
  - Because new drugs of abuse are constantly being sought out by offenders to cheat drug tests, drug courts should frequently and randomly examine samples for a wide range of potential substances of abuse. (American Society of Addiction Medicine, 2013)
- iii. Tests that measure substance use over extended periods of time, such as ankle monitors, are applied for at least 90 consecutive days followed by urine or other intermittent test methods.**
  - Research indicates that use of an alcohol tether device may deter alcohol consumption and alcohol-impaired drivers among recidivist DWI offenders if it is worn for at least 90 days. (Flango & Cheeseman, 2009) (Tison, Nichols, Casanova-Powell, & Chaudhary, 2015)

### ***c. Promising Practices***

- i. Drug and alcohol testing continues uninterrupted to determine whether relapse occurs as other treatment and supervision services are adjusted.
  - Although research has not occurred on this issue, logic dictates that continued testing provides the greatest assurance that participants remain abstinent. (National Association of Drug Court Professionals, 2015)

## **4. SCIENTIFICALLY VALID DRUG TESTING METHODS**

### ***a. Standards***

- i. A drug treatment court shall provide a drug court participant with all of the following:
  - **Mandatory periodic and random testing for the presence of any controlled substance or alcohol in a participant's blood, urine, or breath, using to the extent practicable the best available, accepted, and scientifically valid methods. (MCL 600.1072(1)(b)) (Emphasis added)**
- ii. **If the court determines that scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise if (1) the testimony is based on sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case. (Michigan Rules of Evidence, Rule 702. Adopted from the Federal Rules of Evidence, Rule 702. Based on *Daubert v. Merrell Dow Pharmaceuticals*)**

### ***b. Best Practices***

- i. **A drug court uses scientifically valid and reliable testing procedures.**
  - To be admissible as evidence in a legal proceeding, drug and alcohol test results must be derived from scientifically valid and reliable methods. (Meyer, 2011)
  - Appellate courts have recognized the scientific validity of several commonly used methods for analyzing urine, including gas chromatography/mass spectrometry (GC/MS); liquid

chromatography/tandem mass spectrometry (LC/MS/MS); the enzyme multiple immunoassay technique (EMIT); and some sweat, oral fluid, hair, and ankle-monitor tests. (Meyer, 2011)

- Appellate courts have recognized the scientific validity of ethyl glucuronide (ETG) testing. (Lawrence)
- ii. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as GC/MS or LC/MS. Unless a participant admits to using the drug identified by the screening procedure, confirmation of presumptive positive tests should be mandatory.**
- Gas chromatography-mass spectrometry (GC-MS) provides chemical fingerprint identification of drugs and is recognized as the definitive confirmation technology. (Cary, 2011)
  - Confirmation with an instrumented test virtually eliminates the odds of a false positive result, assuming the sample was collected and stored properly. (Auerbach, 2007)
  - It is necessary to validate positive screening results in order to rule out the potential of a false positive by performing a confirmation procedure. (Cary, 2011)
- iii. Confirmatory tests are not withheld due to the participant's inability to pay.**
- Drug courts commonly require participants to pay the cost of confirmation tests if the initial screening result is confirmed. (Cary, 2011) (Meyer, 2011)
- iv. Cutoff levels are not interpreted as evidence of new substance use or changes in participants' substance use patterns.**
- Quantitative metabolite levels can vary considerably based on a number of factors, including the total fluid content in urine or blood. (Cary, 2004)
  - Numeric results do not accurately discriminate between whether a participant's overall drug level is increasing or decreasing even if compared to previous urine drug concentrations from the same client and for the same drug. (Cary, 2004)
  - The routine use of urine drug levels by court personnel in an effort to define substance abuse behavior and formulate appropriately measured sanctions is a practice that can result in inappropriate, factually unsupportable conclusions and a decision-making process that lacks a sound scientific foundation. (Cary, 2011)

**v. Test specimens are examined routinely for evidence of dilution and adulteration.**

- The temperature of each urine specimen should be examined immediately upon collection. An unusual temperature might suggest adulteration or tampering. (National Association of Drug Court Professionals, 2015)
- Under normal conditions, urine specimens should be between 90 and 100 degrees Fahrenheit within four minutes of collection; a lower or higher temperature likely indicates a deliberate attempt at deception. (American Society of Addiction Medicine, 2013)
- Specimens should be tested for creatinine and specific gravity. A creatinine level below 20 mg/dL is rare and is a reliable indicator of an intentional effort at dilution or excessive fluid consumption. (American Society of Addiction Medicine, 2013)

## **5. WITNESSED COLLECTION**

### ***a. Standards***

- i. The person taking the sample shall be of the same sex as the offender providing the sample, unless an emergency condition requires otherwise. (Michigan Department of Corrections Policy Directive 03.03.115)**
- ii. Breathalyzers must be calibrated according to certification standards established by the U.S. Departments of Transportation (DOT) and Health and Human Services (HHS) and/or the State toxicologist. The test must be administered by breath alcohol technicians who are trained in the use and interpretation of breath alcohol results. (U.S. Department of Justice, Office of Justice Programs, Drug Courts Program Office & American University, 2000)**

### ***b. Best Practices***

- i. Collection of test specimens is witnessed directly by a staff person who has been trained to prevent tampering and substitution of fraudulent specimens.**
  - The most effective way to ensure that the sample collection is valid and to avoid tampering is to ensure the collection is witnessed directly by someone who has been properly trained. (American Society of Addiction Medicine, 2013) (Cary, 2011)

### ***c. Promising Practices***

- i. Barring exigent circumstances, participants are not permitted to undergo independent drug or alcohol testing in lieu of being tested by trained personnel assigned to or authorized by the drug court.
  - In an effort to refute court-mandated drug-testing results, on occasion, clients may attempt to obtain testing from alternative sources not under the court's control or supervision. (Cary, 2011)
  - The success of any drug court will depend, in part, on the reliable monitoring of substance use. (National Association of Drug Court Professionals, 2015)

## **6. CHAIN OF CUSTODY AND RESULTS**

### ***a. Standards***

- i. **If the court determines that scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise if (1) the testimony is based on sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case. (Michigan Rules of Evidence, Rule 702. Adopted from the Federal Rules of Evidence, Rule 702. Based on *Daubert v. Merrell Dow Pharmaceuticals*)**
- ii. **Under Rule 702, drug courts are required to follow generally accepted chain-of-custody procedures when handling test specimens. (Meyer, 2011)**

### ***b. Best Practices***

- i. **A chain of custody form is completed once a urine sample has been collected. This form ensures the identity and integrity of the sample through transport, testing, and reporting of results. (Kadehjian, 2010)**
- ii. Test results, including the results of confirmation testing, are available to the drug court within 48 hours of sample collection.
  - A study of approximately 70 drug courts reported significantly greater reductions in recidivism and significantly greater cost benefits when the teams received drug and alcohol test results within 48 hours of sample collection. (Carey, Mackin, & Finigan, 2012)

### ***c. Promising Practices***

- i. In order to comply with the 48-hour results best practice, drug courts that use tethers or in-home units should require download at least three times per week.

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# Chapter 8: Treatment

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This chapter discusses the standards, best practices, and promising practices regarding treatment in drug court. Specific topics include treatment entry, services, treatment duration, and medication-assisted treatment. Some of the topics in this chapter are also addressed in the chapters on Population and Supervision and Compliance. However, this chapter focuses most closely on the standards and best practices a drug court should follow with regard to substance abuse and mental health treatment.

In order for a program to become a certified drug court, it must comply with all of the standards and required best practices in this chapter. All standards and required best practices are in bold.

## 1. GENERAL & DEFINITION OF DRUG TREATMENT COURTS

### *a. Standards*

- i. **“Drug treatment court” means a court-supervised treatment program for individuals who abused or are dependent upon any controlled substance or alcohol. A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals. (MCL 600.1060(c))**
- ii. **If the individual being considered for admission to a drug treatment court is charged in a criminal case or, in the case of a juvenile, is alleged to have engaged in activity that would constitute a criminal act if committed by an adult, his or her admission is subject to all of the following conditions:**
  - **The offense or offenses allegedly committed by the individual must be related to the abuse, illegal use, or possession of a controlled substance or alcohol. (MCL 600.1068(1)(a))**

### *b. Best Practices*

- i. **A clinically trained treatment representative is a core member of the drug court team and regularly attends team meetings and status hearings.**
  - **Recidivism may be reduced twofold when representatives from the drug court’s primary treatment agencies regularly attend staffing meetings and status review hearings. (Carey, Mackin, & Finigan, 2012)**

- ii. Treatment should address major criminogenic needs. Eight major criminogenic needs have been identified that contribute to the risk for recidivism among offenders and that are dynamic or changeable via programmatic interventions.
  - Reductions in recidivism are proportional to the number of criminogenic needs addressed within offender treatment programs. (Peters, 2011)
- iii. One or two treatment agencies are primarily responsible for managing the delivery of treatment services for drug court participants.
  - Drug courts that worked with two or fewer treatment agencies were able to reduce recidivism by 74 percent over drug courts that used more agencies. (Carey, Mackin, & Finigan, 2012)

## 2. TREATMENT ENTRY

### *a. Best Practices*

- i. **Drug courts link participants to treatment as soon as possible.**
  - Family dependency drug court participants are linked to treatment more quickly than those who experience the traditional dependency court system, stay in treatment longer, and are more likely to complete treatment. (Bruns, Pullmann, Wiggins, & Watterson, 2011)
  - People mandated to treatment by the criminal justice system experience similar outcomes related to substance abuse and recidivism as those seeking treatment voluntarily. Retention in treatment is often higher among those coerced into treatment. Such participants perform as well as voluntary participants across a range of in-treatment indicators of progress (e.g., self-efficacy, coping skills, clinical symptoms, 12-step involvement, motivation for change). (Peters, 2011)
  - Participants who enter drug court quickly tend to enter treatment more quickly. (Worcel, Furrer, Green, & Rhodes, 2006)
- ii. Drug courts consider using the Risk Needs Responsivity (RNR) Model.
  - The RNR model has led to better risk assessment instruments to predict criminal behavior and better treatment programs that match services to the level of risk and needs. As a result, the RNR model, when properly applied, has led to a reduction in recidivism. (Bonta & Andrews, 2007)

### **3. TREATMENT SERVICES**

#### ***a. Standards***

- i. A drug treatment court shall provide a drug court participant with all of the following:
  - Substance abuse treatment services, relapse prevention services, education, and vocational opportunities as appropriate and practicable. (MCL 600.1072(1)(e))
- ii. A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:
  - Access to a continuum of alcohol, drug, and other related treatment and rehabilitation services. (MCL 600.1060(c)(iv))

#### ***b. Best Practices***

- i. The drug court offers a continuum of care for substance abuse treatment, including detoxification, residential, sober living, day treatment, intensive outpatient, and outpatient services.
  - Outcomes, including graduation rates and recidivism, are significantly better in drug courts that offer a continuum of care for substance abuse treatment, which includes residential treatment and recovery housing in addition to outpatient treatment. (Carey, Mackin, & Finigan, 2012) (Koob, Brocato, & Kleinpeter, 2011)
  - Community aftercare treatment for offenders can significantly reduce rates of substance use and recidivism. (Peters, 2011)
- ii. The drug court offers trauma-informed services.
  - Please see Section F of Chapter VI in the [National Association of Drug Court Professionals Adult Drug Court Best Practice Standards, Volume II](#). (National Association of Drug Court Professionals, 2015)
- iii. The drug court offers gender-specific substance abuse treatment groups.
  - A study of approximately 70 drug courts found that programs offering gender-specific services reduced criminal recidivism significantly more than those that did not. (Carey, Mackin, & Finigan, 2012)
- iv. The drug court offers mental health treatment.
  - Programs that excluded offenders with serious mental health issues were significantly less cost-effective and had no better impact on recidivism than drug courts that did not exclude such individuals. (Carey, Mackin, & Finigan, 2012)

- v. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.
  - Relying on in-custody substance abuse treatment can reduce the cost-effectiveness of a drug court by as much as 45 percent. (Carey, Mackin, & Finigan, 2012)
  - Some drug courts may place participants in jail as a means of providing detoxification services or to keep them “off the streets” when adequate treatment is unavailable in the community. This practice is inconsistent with best practices, unduly costly, and unlikely to produce lasting benefits. (National Association of Drug Court Professionals, 2013)

## **4. EVIDENCE-BASED MODELS OF TREATMENT**

### ***a. Best Practices***

- i. **Treatment providers use evidence-based models and administer treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.**
  - Outcomes from correctional rehabilitation are significantly better when evidence-based models are used, and fidelity to the model is maintained through continuous supervision of the treatment providers. (National Association of Drug Court Professionals, 2013)
  - Examples of manualized CBT curricula that have been proven to reduce criminal recidivism among offenders include Moral Reconation Therapy (MRT), Reasoning and Rehabilitation (R&R), Thinking for a Change (T4C), Relapse Prevention Therapy (RPT), and the Matrix Model. (National Association of Drug Court Professionals, 2013)

## **5. TREATMENT DURATION**

### ***a. Best Practices***

- i. **Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.**
  - Providing continuous treatment for at least one year is associated with reduced recidivism. (Warren, 2007)

- The longer participants remain in treatment and the more sessions they attend, the better their outcomes. (National Association of Drug Court Professionals, 2013)
- ii. Participants ordinarily receive 6 to 10 hours of counseling per week during the initial phase of treatment and approximately 200 hours of counseling over 9 to 12 months; however, the drug court allows for flexibility to accommodate individual differences in each participant's response to treatment.
  - The best outcomes are achieved when addicted offenders complete a course of treatment extending over approximately 9 to 12 months. (Peters, 2011) (Cobbina & Huebner, 2007)
  - Assuming drug courts are treating individuals who are addicted to drugs or alcohol, and are at a high risk for criminal recidivism or treatment failure, studies show that, on average, participants will require 6 to 10 hours of counseling per week in the first phase and 200 hours over the course of treatment. (National Association of Drug Court Professionals, 2013)

## 6. MEDICATION-ASSISTED TREATMENT (MAT)

### *a. Best Practices*

- i. **Drug courts allow the use of medication-assisted treatment (MAT) when appropriate, based on a case-specific determination and handle MAT very similarly to other kinds of treatment.**
  - Numerous controlled studies have reported significantly better outcomes when addicted offenders received medication-assisted treatments including opioid antagonist medications such as naltrexone, opioid agonist medications such as methadone, and partial agonist medications such as buprenorphine. (Chandler, Fletcher, & Volkow, 2009) (Finigan, Perkins, Zold-Kilbourn, Parks, & Stringer, 2011)
  - Buprenorphine or methadone maintenance administered prior to and immediately after release from jail or prison has been shown to significantly increase opiate-addicted inmates' engagement in treatment, reduce illicit opiate use, reduce rearrests, and reduce mortality and hepatitis C infections. (National Association of Drug Court Professionals, 2013)
  - Courts repeatedly emphasize that they do not do things differently for MAT participants. (Friedman & Wagner-Goldstein, 2016)

ii. **Only physicians with expertise in addiction psychiatry or addiction medicine may determine the type, dosage, and duration of medication-assisted treatments.**

- The basic purpose of probation is to provide an individualized program of rehabilitation. (Roberts v United States, 1943)

***b. Promising Practices***<sup>7</sup>

- i. Courts monitor medication use to minimize misuse and diversion.
- ii. Medically assisted treatment programs integrate behavior health treatment and wraparound services from a licensed treatment provider.
- iii. Courts consider all clinically appropriate forms of treatment.
- iv. Judges rely heavily on the clinical judgment of treatment providers as well as the court's own clinical staff.
- v. Courts develop strong relationships with treatment programs and require regular communication regarding participant progress.
- vi. Courts are selective about treatment programs and private prescribing physicians.

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<sup>7</sup> These practices are suggested by, and courts should review, *Medication Assisted Treatment in Drug Courts: Recommended Strategies*. <http://lac.org/wp-content/uploads/2016/04/MATinDrugCourts.pdf>. Provided by the Center for Court Innovation, the State of New York Unified Court System, and the Legal Action Center.

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# Chapter 9: Education

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Education and training are important components in any drug court. This chapter discusses standards, best practices, and promising practices regarding education of the drug court team.

In order for a program to become a certified drug court, it must comply with all of the standards and required best practices in this chapter. All standards and required best practices are in bold.

## 1. GENERAL

### *a. Standards*

- i. **A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:**
  - **Continued interdisciplinary education in order to promote effective drug court planning, implementation, and operation. (MCL 600.1060(c)(ix))**
- ii. **A court that is adopting a drug treatment court shall participate in training as required by the state court administrative office and the bureau of justice assistance of the United States department of justice. (MCL 600.1062(3))**

### *b. Best Practices*

- i. **Team members participate in continuing education workshops to gain up-to-date knowledge about best practices on drug court topics.**
  - A multisite study involving more than 60 drug courts found that participation in annual training conferences was the single greatest predictor of program effectiveness. (Shaffer, Reconsidering drug court effectiveness: A meta-analytic review, 2006) (Shaffer, 2010)
- ii. **New team members complete a formal training or orientation as soon as practical after assuming their position.**
  - Drug courts where new hires complete a formal training or orientation program were able to reduce recidivism by 54 percent over those who did not engage in such practices. (Carey, Mackin, & Finigan, 2012)

- iii. **The drug court judge attends current training events on legal and constitutional issues in drug courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. Attendance at annual training conferences and workshops ensure contemporary knowledge about advances in the drug court field.**
  - Because judges have such a substantial impact on outcomes in drug court, continued training is especially important. (Carey, Mackin, & Finigan, 2012)
- iv. Before starting a drug court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in drug courts and develop fair and effective policies and procedures for the program.
  - In drug courts where the teams participated in formal training prior to implementation, cost savings increased by two and a half times, and the programs were 50 percent more effective at reducing recidivism. (Carey, Pukstas, Waller, Mackin, & Finigan, 2008) (Carey, Mackin, & Finigan, 2012)
  - Drug courts that did not receive pre-implementation training had outcomes that were only negligibly different from traditional criminal justice programming. (Carey, Pukstas, Waller, Mackin, & Finigan, 2008)

### ***c. Promising Practices***

- i. Drug court team members should attend the annual Michigan Association of Treatment Court Professionals conference.
- ii. Drug court team members should attend appropriate trainings offered by the State Court Administrative Office.

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# Chapter 10: Program Evaluation

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This chapter discusses the standards, best practices, and promising practices regarding program evaluation of a drug court. Specific topics include collection and maintenance of information, evaluation, and program modification.

In order for a program to become a certified drug court, it must comply with all of the standards and required best practices in this chapter. All standards and required best practices are in bold.

## 1. COLLECTION AND MAINTENANCE OF INFORMATION

### *a. Standards*

- i. **Each drug treatment court shall collect and provide data on each individual applicant and participant and the entire program as required by the state court administrative office. (MCL 600.1078(1))**
- ii. **Each drug treatment court shall maintain files or databases on each individual applicant or referral who is denied or refused admission to the program, including the reasons for the denial or rejection, the criminal history of the applicant, the preadmission evaluation and assessment, and other demographic information as required by the state court administrative office. (MCL 600.1078(2))**
- iii. **Each drug treatment court shall maintain files or databases on each individual participant in the program for review and evaluation as well as treatment, as directed by the state court administrative office. The information collected for evaluation purposes must include a minimum standard data set<sup>8</sup> developed and specified by the state court administrative office. This information should be maintained in the court files or otherwise accessible by the courts and the state court administrative office and, as much as practicable, should include all of the following:**
  - **Location and contact information for each individual participant, both upon admission and termination or completion of the program for follow-up reviews, and third party contact information. (MCL 600.1078(3)(a))**

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<sup>8</sup> The minimum standard data set for Michigan adult drug and DWI courts is available at <http://courts.mi.gov/Administration/admin/op/problem-solving-courts/Documents/MinimumStandardDataReformattedAdult.pdf> and as Appendix B of this manual.

- Significant transition point dates, including dates of referral, enrollment, new court orders, violations, detentions, changes in services or treatments provided, discharge for completion or termination, any provision of after-care, and after-program recidivism. (MCL 600.1078(3)(b))
  - The individual's precipitating offenses and significant factual information, source of referral, and all drug treatment court evaluations and assessments. (MCL 600.1078(3)(c))
  - Treatments provided, including intensity of care or dosage, and their outcomes. (MCL 600.1078(3)(d))
  - Other services or opportunities provided to the individual and resulting use by the individual, such as education or employment and the participation of and outcome for that individual. (MCL 600.1078(3)(e))
  - Reasons for discharge, completion, or termination of the program. (MCL 600.1078(3)(f))
- ii. As directed by the state court administrative office, after an individual is discharged either upon completion or termination of the program, the drug treatment court should conduct, as much as practicable, follow-up contacts with and reviews of participants for key outcome indicators, such as drug use, recidivism, and employment, as frequently and for a period of time determined by the state court administrative office based upon the nature of the drug treatment court and the nature of the participant. These follow-up contacts and reviews of former participants are not extensions of the court's jurisdiction over the individuals. (MCL 600.1078(4))

### ***b. Best Practices***

- i. Maintain program data for evaluation purposes in an electronic database rather than paper files.
- Drug courts are 65 percent more cost effective when they enter data for evaluations into an electronic database rather than storing it in paper files. (Carey, Mackin, & Finigan, 2012)
  - Michigan's Drug Court Case Management Information System can be accessed at <https://dccmis.micourt.org/default.aspx>.

## 2. EVALUATION AND PROGRAM MODIFICATION

### *a. Best Practices*

- i. **Use data to monitor program operations on a consistent basis and make program changes where necessary.**
  - In programs where staff monitor the internal operations of their program on a consistent basis and make necessary program modifications, the programs reduced recidivism 105 percent and were 131 percent more cost-effective than programs that did not. (Carey, Mackin, & Finigan, 2012)
- ii. Enlist the services of independent evaluators and implement appropriate recommended changes.
  - Programs that had external independent evaluators review their program and suggest changes, and then implemented those changes, were 100 percent more effective at reducing cost and 85 percent more effective in reducing recidivism than programs that did not. (Carey, Mackin, & Finigan, 2012)

### *b. Promising Practices*

- i. Evaluate short-term outcomes frequently while participants are enrolled in the program.
  - The National Research Advisory Committee developed a [list of performance measures](#) that drug courts should use to measure their efficiency, efficacy, and achievement of program goals. (National Association of Drug Court Professionals, 2015).
- ii. Independent evaluators should examine the program's three- to five-year performance outcomes at least once every five years.
  - External evaluators should examine recidivism three years to five years after participants' program admission. Program admission should be the latest start date for the evaluation because that is when the drug court becomes capable of influencing participant behavior. (National Association of Drug Court Professionals, 2015).
  - While no specific research exists with regard to how frequently a program should be evaluated, a new evaluation is warranted when a program significantly changes its operations or has staff turnover. (National Association of Drug Court Professionals, 2015).

## **WORKS CITED**

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Carey, S., Mackin, J., & Finigan, M. (2012). What works? The ten key components of drug court: Research-based best practices. *Drug Court Review*, 7(1), 6-42.

National Association of Drug Court Professionals. (2015). *Adult Drug Court Best Practice Standards; Volume II*. Alexandria, Virginia: National Association of Drug Court Professionals.

# ***Appendix A:***

## ***The Ten Principles of a Good Testing Program***

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The ten most important principles of a successful drug-testing program can be summarized as follows:

1. Design an effective drug detection program, place the policies and procedures of that program into written form (drug court manual), and communicate the details of the drug detection program to the court staff and clients alike.
2. Develop a client contract that clearly enumerates the responsibilities and expectations associated with of the court's drug detection program.
3. Select a drug-testing specimen and testing methodology that provide results that are scientifically valid, forensically defensible, and therapeutically beneficial.
4. Ensure that the sample-collection process supports effective abstinence monitoring practices including random, unannounced selection of clients for sample collection and the use of witnessed/direct observation sample-collection procedures.
5. Confirm all positive screening results using alternative testing methods unless participant acknowledges use.
6. Determine the creatinine concentrations of all urine samples and sanction for creatinine levels that indicate tampering.
7. Eliminate the use of urine levels for the interpretation of client drug-use behavior.
8. Establish drug-testing result interpretation guidelines that have a sound scientific foundation and that meet a strong evidentiary standard.
9. In response to drug-testing results, develop therapeutic intervention strategies that promote behavioral change and support recovery.
10. Understand that drug detection represents only a single supervision strategy in an overall abstinence-monitoring program.

### **Source**

National Drug Court Institute. (2011). The Fundamentals of Drug Testing. In P. Cary, *The Drug Court Judicial Benchbook* (p. 137). Alexandria: National Drug Court Institute.

## *Appendix B:*

### *Minimum Standard Data*

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Section 1078 of 2004 PA 224 states that each drug treatment court shall collect and provide data on each individual applicant and participant and the entire program as required by the State Court Administrative Office (SCAO). The information collected must include a minimum standard data set developed and specified by the SCAO. In accordance with this act, the SCAO has prepared the following minimum standard data sets. The minimum standard data sets include the minimum data that must be reported to the SCAO on an annual basis. The reported data will be used in preparing the annual legislative report regarding drug court performance, as mandated in Section 1078 of 2004 PA 224.

In accordance with 2004 PA 224, data must be collected and reported for all drug court applicants who were screened for drug court, even if the applicant was not accepted into the drug court program. Therefore, the minimum standard data that follows is broken into two sets: one set for screening and one set for case management data relevant to accepted participants. This document provides descriptions and valid values for each of the variables in the minimum standard data sets. This information can be entered in the Excel spreadsheet that accompanies this document.

#### **Set 1: Screening**

Minimum standard data set for all screened individuals, whether accepted or rejected.

<b>VARIABLE</b>	<b>DESCRIPTION</b>	<b>VALID VALUES</b>
1. Court Name	Name of the drug court	<ul style="list-style-type: none"> <li>Alpha/Numeric</li> </ul>
2. Court Type	Type of drug court program	<ul style="list-style-type: none"> <li>Adult circuit</li> <li>Adult district</li> <li>DWI/Sobriety</li> <li>Family dependency</li> </ul>
3. Referral Source	Party that referred candidate to drug court	<ul style="list-style-type: none"> <li>Court/judicial</li> <li>Defense attorney</li> <li>DHS</li> <li>DYS</li> <li>Prosecutor</li> <li>Self</li> <li>Other</li> </ul>
4. Screening Date	Date candidate was screened for admission	<ul style="list-style-type: none"> <li>mm/dd/yyyy</li> </ul>
5. First Name	Candidate's legal first name	<ul style="list-style-type: none"> <li>Alpha</li> </ul>
6. Middle Name	Candidate's legal middle name	<ul style="list-style-type: none"> <li>Alpha</li> </ul>
7. Last Name	Candidate's legal last name	<ul style="list-style-type: none"> <li>Alpha</li> </ul>
8. Address	Candidate's street address at screening	<ul style="list-style-type: none"> <li>Alpha</li> </ul>

<b>VARIABLE</b>	<b>DESCRIPTION</b>	<b>VALID VALUES</b>
9. City	City associated with candidate's street address	<ul style="list-style-type: none"> <li>Alpha</li> </ul>
10. State	State associated with candidate's street address	<ul style="list-style-type: none"> <li>Two letter abbreviation</li> </ul>
11. Zip Code	Zip code associated with candidate's street address	<ul style="list-style-type: none"> <li>Five number postal zip code</li> </ul>
12. Race/Ethnicity	Race/ethnicity of the candidate	<ul style="list-style-type: none"> <li>African American</li> <li>Alaskan Native</li> <li>Asian/Pacific Islander</li> <li>Caucasian</li> <li>Hispanic/Latino</li> <li>Multiracial</li> <li>Native American</li> <li>Other</li> </ul>
13. Gender	Gender of the candidate	<ul style="list-style-type: none"> <li>Male</li> <li>Female</li> </ul>
14. DOB	Date the candidate was born	<ul style="list-style-type: none"> <li>mm/dd/yyyy</li> </ul>
15. Marital Status	Marital status of the candidate at screening	<ul style="list-style-type: none"> <li>Single</li> <li>Married</li> <li>Widowed</li> <li>Separated</li> <li>Divorced</li> </ul>
16. Phone Number	Phone number where candidate can be reached	<ul style="list-style-type: none"> <li>(###) ### - ####</li> </ul>
17. SID	Number assigned when candidate was fingerprinted	<ul style="list-style-type: none"> <li>Alphanumeric</li> </ul>
18. SSN last 4 digits	Last four digits of candidate's social security number	<ul style="list-style-type: none"> <li>Numeric</li> </ul>
19. Drug Court Eligible Charge	Charge that made candidate eligible for drug court	<ul style="list-style-type: none"> <li>PACC code</li> </ul>
20. Case/Docket Number	Candidate's case or docket number	<ul style="list-style-type: none"> <li>Numeric</li> </ul>
21. Offense Category	Offense category of the drug court eligible charge	<ul style="list-style-type: none"> <li>B&amp;E/home invasion</li> <li>C.S. manufacturing/distribution</li> <li>C.S. use/possession</li> <li>DUI alcohol first</li> <li>DUI alcohol second</li> <li>DUI alcohol third</li> <li>Neglect and abuse civil</li> <li>Neglect and abuse criminal</li> <li>Non-violent sex offense</li> <li>Other alcohol offense</li> <li>Other drug offense</li> <li>Other criminal traffic offense</li> <li>Property offense</li> <li>Other</li> </ul>

22. Charge Type	Level of the drug court eligible charge	<ul style="list-style-type: none"> <li>• Civil/petition</li> <li>• Felony</li> <li>• Misdemeanor</li> <li>• Other</li> </ul>
If Charge Type is Felony, Prior Record Variable is Required	Variable associated with previous offenses used to identify sentencing guidelines	<ul style="list-style-type: none"> <li>• Numeric</li> </ul>
If Charge Type is Felony, Cell Type is Required	Cell type recommended from the sentencing guidelines	<ul style="list-style-type: none"> <li>• Intermediate</li> <li>• Presumptive</li> <li>• Straddle</li> </ul>
23. Incident Offense	Drug court eligible offense type	<ul style="list-style-type: none"> <li>• New criminal offense</li> <li>• New petition</li> <li>• Parole violation new criminal offense</li> <li>• Parole violation technical</li> <li>• Probation violation new criminal offense</li> <li>• Probation violation technical</li> </ul>
24. Offense Date	Date that the drug court eligible offense occurred	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>
25. Drug Court Approach	Approach to sentencing that the drug court takes	<ul style="list-style-type: none"> <li>• Deferred/delayed sentence</li> <li>• Post sentence</li> </ul>
26. Prior Convictions	Any prior convictions the candidate had previous to screening	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No <ul style="list-style-type: none"> <li>◦ If yes, how many felonies and misdemeanors</li> </ul> </li> </ul>
27. Prior Substance Abuse	Candidate's self-reported prior substance abuse	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
28. Prior Substance Abuse Treatment	Has the candidate received substance abuse treatment before?	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
29. Drug of Choice	Candidate's self-reported primary drug	<ul style="list-style-type: none"> <li>• Alcohol</li> <li>• Amphetamines</li> <li>• Barbiturates</li> <li>• Benzodiazepine</li> <li>• Club drugs</li> <li>• Cocaine</li> <li>• Hallucinogens</li> <li>• Heroin</li> <li>• Inhalants</li> <li>• Marijuana</li> <li>• Methamphetamines</li> <li>• Opiates(other)</li> <li>• Poly drug</li> <li>• Sedative/hypnotic</li> <li>• Other (explain)</li> </ul>
30. IV Drug User	Candidate's current use of IV drugs	<ul style="list-style-type: none"> <li>• Currently IV drug user</li> <li>• Not currently IV drug user</li> </ul>
31. History of IV Drug Use	Candidate's history of IV drug use	<ul style="list-style-type: none"> <li>• No history of IV drug use</li> <li>• History of IV drug use</li> </ul>

32. Primary DSM-IV Code	Primary substance use disorder DSM-IV code as provided by a clinician during screening	290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 332, 333, 347, 607, 608, 625, 780, 787, 799, 995, v15, v61, v62, v65, v71 and more specific information if available
33. Substance Abuse Assessment Instrument	The assessment instrument used to determine clinical eligibility for participation	<ul style="list-style-type: none"> <li>• ADAD</li> <li>• ASI</li> <li>• ASI – Lite</li> <li>• BSAP</li> <li>• GAINS</li> <li>• JASAE</li> <li>• NEEDS</li> <li>• RANT</li> <li>• SALCI</li> <li>• SASSI</li> <li>• Other</li> </ul>
34. ASAM Placement Criteria	American Society of Addiction Medicine level of care	<ul style="list-style-type: none"> <li>• Level 0.5 Early intervention</li> <li>• Level I Outpatient</li> <li>• Level II Intensive outpatient/partial hospitalization</li> <li>• Level III Residential/inpatient</li> <li>• Level IV Medically managed intensive inpatient</li> </ul>
35. Recommended Treatment Modality/Service	Substance abuse treatment modality recommended	<ul style="list-style-type: none"> <li>• S.A. outpatient detox</li> <li>• S.A. sub-acute detox</li> <li>• S.A. residential</li> <li>• S.A. intensive inpatient</li> <li>• S.A. outpatient</li> <li>• S.A. early intervention/education</li> <li>• Mental health</li> <li>• Other residential</li> <li>• Other outpatient</li> </ul>
36. Age Began Using Drugs	Self-reported age of first drug use	<ul style="list-style-type: none"> <li>• Numeric</li> </ul>
37. Age Began Using Alcohol	Self-reported age of first alcohol use	<ul style="list-style-type: none"> <li>• Numeric</li> </ul>
38. Current Substance Abuse Treatment	Is the candidate currently in a SA treatment program?	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
39. Current Medications	Medications candidate was taking at screening	<ul style="list-style-type: none"> <li>• None</li> <li>• Physical and psychological</li> <li>• Physical,</li> <li>• Psychological</li> </ul>
40. History of Mental Health Condition(s)	History of mental illness(es)	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>

41. Highest Education Level Completed	Highest level of education completed at screening	<ul style="list-style-type: none"> <li>• ≤11th grade</li> <li>• GED</li> <li>• High school graduate</li> <li>• Some trade school</li> <li>• Trade school</li> <li>• Some college</li> <li>• College graduate 2 year program</li> <li>• College graduate 4 year program</li> <li>• Some post graduate</li> <li>• Advanced degree</li> </ul>
42. Employment History	Employment at screening	<ul style="list-style-type: none"> <li>• Unemployed</li> <li>• Employed part-time (less than 35 hours)</li> <li>• Employed full-time (35 hours or more)</li> <li>• Not in labor force (student, home maker, retired, etc.)</li> </ul>
43. Number of Times Moved in the Last Three Years	Number of times candidate reports moving in the last three years	<ul style="list-style-type: none"> <li>• Numeric</li> </ul>
44. Length of Time at Current Address	Time candidate has lived at current address	<ul style="list-style-type: none"> <li>• Months and years</li> </ul>
<b>If Accepted into Drug Court</b>		
45. Date Accepted	Date the candidate was accepted to drug court	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>
46. Judge	Name of judge candidate will see	<ul style="list-style-type: none"> <li>• Alpha</li> </ul>
47. Case Manager	Name of case manager candidate will see	<ul style="list-style-type: none"> <li>• Alpha</li> </ul>
48. Jail Status of Defendant	Was the defendant in jail when accepted into drug court?	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No <ul style="list-style-type: none"> <li>○ If yes, include admission date and end date</li> </ul> </li> </ul>
<b>If Rejected From Drug Court</b>		
49. Date Rejected	Date the candidate was rejected from drug court	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>
50. Rejection Reason	Reason for candidate's rejection from drug court	<ul style="list-style-type: none"> <li>• Program at capacity</li> <li>• Prosecuting attorney</li> <li>• Statutory ineligibility</li> <li>• Pending another case</li> <li>• Unable to locate</li> <li>• No SA diagnosis</li> <li>• Refusal</li> <li>• Mental health issue</li> <li>• Medical issues</li> <li>• History of violent offenses</li> <li>• Geographic/transportation issues</li> <li>• Judicial denial</li> <li>• Other</li> <li>• Eligible, but randomized</li> <li>• Death</li> <li>• Non-target population</li> </ul>

Questions about this data set can be directed to [TrialCourtServices@courts.mi.gov](mailto:TrialCourtServices@courts.mi.gov).

## **Set 2: Case Management**

Minimum Standard Data Set for participants accepted into drug court.

<b>VARIABLE</b>	<b>DESCRIPTION</b>	<b>VALID VALUES</b>
1. Third Party Stable Contact for Participant	Identify an emergency contact for the participant	<ul style="list-style-type: none"><li>• Name, address, phone number, and relationship to participant</li></ul>
2. Arrest Date	Date participant was arrested on the drug court eligible charge	<ul style="list-style-type: none"><li>• mm/dd/yyyy</li></ul>
3. Drug Court Entry Date	Date participant entered drug court	<ul style="list-style-type: none"><li>• mm/dd/yyyy</li></ul>
4. Sentencing Date	Date participant was sentenced on the drug court eligible charge	<ul style="list-style-type: none"><li>• mm/dd/yyyy</li></ul>
5. Sentencing Guidelines	Time range assigned to the drug court eligible charge	<ul style="list-style-type: none"><li>• Days or months</li></ul>
6. Drug Test Frequency	Dates of drug tests – will be used by SCAO to calculate frequency	<ul style="list-style-type: none"><li>• mm/dd/yyyy</li></ul>
7. Drug Test Results	Indicate whether each drug test given was positive or negative	<ul style="list-style-type: none"><li>• Positive</li><li>• Negative</li></ul>
8. Phase Progression or Demotion	Indicate dates participant progressed or was demoted through phases – will be used by SCAO to determine number of days/phase	<ul style="list-style-type: none"><li>• mm/dd/yyyy</li></ul>
9. Sanction Date	Date participant received a sanction	<ul style="list-style-type: none"><li>• mm/dd/yyyy</li></ul>

VARIABLE	DESCRIPTION	VALID VALUES
10. Sanction Type	Type of sanction the participant received	<ul style="list-style-type: none"> <li>• 3/4 Housing</li> <li>• Alcohol testing increased</li> <li>• Community service</li> <li>• Court appearances increased</li> <li>• Curfew imposed</li> <li>• Detention</li> <li>• Drug testing increased</li> <li>• Jail</li> <li>• Job club until employed</li> <li>• Letter of apology</li> <li>• MADD impact panel</li> <li>• Probation reporting increased</li> <li>• Removal of driving privileges</li> <li>• Removal of social function privileges</li> <li>• Residential facility</li> <li>• Self-help sessions increased</li> <li>• Tether-all types</li> <li>• Tether or home detention</li> <li>• Verbal warning</li> <li>• Weekend program</li> <li>• Writing assignment/essay</li> <li>• Other <ul style="list-style-type: none"> <li>○ If jail is given, state date in and date out</li> </ul> </li> </ul>
11. Sanction Reason	Reason the participant received a sanction	<ul style="list-style-type: none"> <li>• Alpha</li> </ul>
12. Incentive Date	Date participant received an incentive	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>
13. Incentive Type	Type of incentive the participant received	<ul style="list-style-type: none"> <li>• Applause</li> <li>• Books</li> <li>• Court appearances decreased</li> <li>• Court appearances ended</li> <li>• Curfew extension</li> <li>• Drug testing decreased</li> <li>• Entry into gift drawing</li> <li>• Gift certificate</li> <li>• Graduate early</li> <li>• Individualized awards</li> <li>• Judicial praise</li> <li>• Permission to travel granted</li> <li>• Phase advancement</li> <li>• Probation reporting reduced</li> <li>• Probation reporting ended</li> <li>• Other</li> </ul>
14. Incentive Reason	Reason the participant received an incentive	<ul style="list-style-type: none"> <li>• Alpha</li> </ul>
15. Treatment provider	Name of treatment provider	<ul style="list-style-type: none"> <li>• Alpha</li> </ul>
16. Treatment Admit Date for Each Episode	Date the participant was admitted to a treatment modality	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>

<b>VARIABLE</b>	<b>DESCRIPTION</b>	<b>VALID VALUES</b>
17. Treatment Discharge Date for Each Episode	Date the participant was discharged from a treatment modality	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>
18. Number of Sessions/units of Treatment	Number of sessions a participant received in a treatment modality	<ul style="list-style-type: none"> <li>• Numeric</li> </ul>
19. Number of 12-step Program Meetings Attended	Number of 12-step meetings the participant attended during treatment	<ul style="list-style-type: none"> <li>• Numeric</li> </ul>
20. Treatment Discharge Reason	Reason the participant was discharged from a treatment modality	<ul style="list-style-type: none"> <li>• Successfully completed</li> <li>• Not completed/unsuccessful</li> <li>• Death</li> <li>• Other</li> </ul>
21. Treatment Modality/Service Category	Type of treatment modality the participant received	<ul style="list-style-type: none"> <li>• S.A. Outpatient detox</li> <li>• S.A. Sub-acute detox</li> <li>• S.A. Residential</li> <li>• S.A. Intensive outpatient</li> <li>• S.A. Outpatient</li> <li>• S.A. Early intervention/education</li> <li>• Mental health</li> <li>• Other residential</li> <li>• Other outpatient</li> </ul>
If Receiving Mental Health Services for Drug Court Participants (MHSDCP) Grant Funding, Mental Health Service Modality is required.	Type of mental health treatment modality the participant received	<ul style="list-style-type: none"> <li>• Assertive Community Treatment</li> <li>• Case Management/Support Coordination</li> <li>• Co-occurring Treatment Services</li> <li>• Community Based Services</li> <li>• Crisis Residential/Intensive Crisis Stabilization</li> <li>• Doctor/Medication Review</li> <li>• Employment Services</li> <li>• Inpatient Hospitalization/Partial Day Hospitalization</li> <li>• Residential</li> <li>• Therapy Services</li> </ul>
If Receiving Mental Health Services for Drug Court Participants (MHSDCP) Grant Funding, Mental Health Axis I DSM-IV Code is required.	DSM-IV Code associated with the Axis I Mental Illness resulting in treatment	<ul style="list-style-type: none"> <li>• 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 332, 333, 347, 607, 608, 625, 780, 787, 799, 995, v15, v61, v62, v65, v71 and more specific information if available</li> </ul>

VARIABLE	DESCRIPTION	VALID VALUES
If Receiving Mental Health Services for Drug Court Participants (MHSDCP) Grant Funding, Mental Health Treatment Discharge Reason is required	Reason the participant was discharged from a treatment modality	<ul style="list-style-type: none"> <li>• Successfully completed</li> <li>• Not completed/unsuccessful</li> <li>• Death</li> <li>• Other</li> </ul>
If Receiving Mental Health Services for Drug Court Participants (MHSDCP) Grant Funding, Mental Health Treatment Admit and Discharge Dates are required	Admission and Discharge Date associated with the mental health treatment modality	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>
22. Number of Drug Court Reviews	Number of drug court reviews the participant had	<ul style="list-style-type: none"> <li>• Numeric</li> </ul>
If participating in the Interlock Pilot Program, answering the question, "Is This Participant a Member of the Interlock Pilot Program" is required	Indicates participation in the Interlock Pilot Program	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
If Participating in the Interlock Pilot Program, answering the question, "Was participant ordered to install Interlock device on vehicles" is required	Indicates order given to participant	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
If Participating in the Interlock Pilot Program, and the Participant was Ordered to Install and Interlock Device on Vehicles, then answering the question, "Did participant install interlock device on vehicle as required" is required	Indicates if interlock was installed	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No <ul style="list-style-type: none"> <li>○ If yes, date is required</li> </ul> </li> </ul>
If Participating in the Interlock Pilot Program, and the Participant was Ordered to Install and Interlock Device on Vehicles, then answering the question, "Participant	Indicates if the participant removed interlock device without permission	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No <ul style="list-style-type: none"> <li>○ If yes, date and program sanction question are required</li> </ul> </li> </ul>

VARIABLE	DESCRIPTION	VALID VALUES
removed interlock device without court approval" is required		
If Participating in the Interlock Pilot Program, and the Participant was Ordered to Install and Interlock Device on Vehicles, then answering the question, "Did participant tamper with interlock device" is required	Indicates if the participant tampered with the interlock device without permission	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No <ul style="list-style-type: none"> <li>○ If yes, date and program sanction question are required</li> </ul> </li> </ul>
If Participating in the Interlock Pilot Program, and the Participant was Ordered to Install and Interlock Device on Vehicles, then answering the question, "Did participant operate vehicle not equipped with interlock" is required	Indicates if the participant operated a vehicle without an interlock device	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No <ul style="list-style-type: none"> <li>○ If yes, date and program sanction question are required</li> </ul> </li> </ul>
23. Program Discharge Date	Date the participant was discharged from drug court	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>
24. Program Discharge Reason	Reason the participant was discharged from drug court	<ul style="list-style-type: none"> <li>• Successfully completed</li> <li>• Unsuccessful/new offense</li> <li>• Unsuccessful/non-compliant</li> <li>• Unsuccessful/Absconded</li> <li>• Voluntarily withdrew</li> <li>• Transfer to another jurisdiction</li> <li>• Death</li> <li>• Other</li> </ul>
25. Sentence/Disposition at Discharge	Participant's sentence or disposition upon discharge from program	<ul style="list-style-type: none"> <li>• Jail = days</li> <li>• Probation = months</li> <li>• Prison = months</li> </ul>
26. Supervision Status at Discharge	Participant's level of supervision upon discharge from program	<ul style="list-style-type: none"> <li>• Completed probation</li> <li>• Continued probation</li> <li>• Not applicable</li> </ul>
27. Education at Discharge	Educational level achieved by participant at discharge	<ul style="list-style-type: none"> <li>• ≤ 11th grade</li> <li>• GED</li> <li>• High school graduate</li> <li>• Some trade school</li> <li>• Trade school graduate</li> <li>• Some college</li> <li>• College grad 2 Yr program</li> <li>• College grad 4 Yr program</li> <li>• Some post graduate</li> <li>• Advanced degree</li> </ul>
28. Positive Change in	Subjective decision by case	<ul style="list-style-type: none"> <li>• Yes</li> </ul>

<b>VARIABLE</b>	<b>DESCRIPTION</b>	<b>VALID VALUES</b>
Education	manager	<ul style="list-style-type: none"> <li>No</li> </ul>
29. Employment at Discharge	Employment status of participant at discharge	<ul style="list-style-type: none"> <li>Unemployed</li> <li>Employed part-time &lt; 35 hours</li> <li>Employed full-time ≥ 35 hours</li> <li>Not in labor force (student, home maker, retired, etc.)</li> </ul>
30. Positive Change in Employment	Subjective decision by case manager	<ul style="list-style-type: none"> <li>Yes</li> <li>No</li> </ul>
31. Custody Status at Discharge	Identify the type of child custody the participant had at discharge.	<ul style="list-style-type: none"> <li>Temporarily lost custody</li> <li>Regained custody</li> <li>Parental rights terminated</li> <li>Never lost custody</li> <li>N/A</li> </ul>
32. Drug Court Case Outcome at Discharge	Legal case disposition	<ul style="list-style-type: none"> <li>Case dismissed</li> <li>Charge reduced</li> <li>Charge &amp; sentence reduced</li> <li>No change in charge or sentence</li> <li>Sentence reduced</li> <li>Not applicable</li> <li>Other</li> </ul>
33. Number of Bench Warrants	Number of bench warrants participant received during program	<ul style="list-style-type: none"> <li>Numeric</li> </ul>
34. In-program New Arrest-Date of Offense	Date of new offense that occurred during program participation	<ul style="list-style-type: none"> <li>mm/dd/yyyy</li> </ul>
35. In-program New Arrest-Date of Arrest	Date of new arrest that occurred during program participation	<ul style="list-style-type: none"> <li>mm/dd/yyyy</li> </ul>
36. In-program New Arrest-Offense Category	Offense category of new offense that occurred during program participation	<ul style="list-style-type: none"> <li>B&amp;E/home invasion</li> <li>C.S. manufacture/distribution</li> <li>C.S. use/possession</li> <li>DUI alcohol 1<sup>st</sup></li> <li>DUI alcohol 2<sup>nd</sup></li> <li>DUI alcohol 3<sup>rd</sup></li> <li>Neglect and abuse-civil</li> <li>Neglect and abuse-criminal</li> <li>Non-violent sex offense</li> <li>Other drug offense</li> <li>Other criminal traffic offense</li> <li>Property offense</li> <li>Other</li> </ul>
37. In-program New Arrest - Charge Type	Charge type of new offense that occurred during program participation	<ul style="list-style-type: none"> <li>Felony</li> <li>Misdemeanor</li> <li>Civil/petition</li> <li>Other</li> </ul>

<b>VARIABLE</b>	<b>DESCRIPTION</b>	<b>VALID VALUES</b>
38. In-program New Conviction- Date of Conviction	Date of new conviction that occurred during program participation	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>
39. In-program New Conviction- Offense Category	Offense category of new conviction that occurred during program participation	<ul style="list-style-type: none"> <li>• B&amp;E/home invasion</li> <li>• C.S. manufacture/distribution</li> <li>• C.S. use/possession</li> <li>• DUI alcohol 1<sup>st</sup></li> <li>• DUI alcohol 2<sup>nd</sup></li> <li>• DUI alcohol 3<sup>rd</sup></li> <li>• Neglect and abuse-civil</li> <li>• Neglect and abuse-criminal</li> <li>• Non-violent sex offense</li> <li>• Other drug offense</li> <li>• Other criminal traffic offense</li> <li>• Property offense</li> <li>• Other</li> </ul>
40. In-program New Conviction - Charge Type	Charge type of new conviction that occurred during program participation	<ul style="list-style-type: none"> <li>• Felony</li> <li>• Misdemeanor</li> <li>• Civil/petition</li> <li>• Other</li> </ul>
41. In-program New Conviction- Sentence Type	Sentence type of new conviction that occurred during program participation	<ul style="list-style-type: none"> <li>• Jail</li> <li>• Probation</li> <li>• Split Jail/Probation</li> <li>• Prison</li> <li>• Other</li> </ul>
42. In-program New Conviction- Length of Sentence	Length of sentence associated with new conviction that occurred during program participation	<ul style="list-style-type: none"> <li>• Jail = days</li> <li>• Probation = months</li> <li>• Prison = months</li> </ul>
43. Total Number of Jail Days Spent While in Drug Court Program	Count any jail time associated with the drug court eligible charge, including time served from arrest until release to drug court, drug court jail sanctions, and time for any new offenses	<ul style="list-style-type: none"> <li>• Numeric</li> </ul>
44. Recidivism New Arrest Post-program - Date of Arrest	Calculated at 6 months, 1 year, 2 years, and 3 years	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>

VARIABLE	DESCRIPTION	VALID VALUES
45. Recidivism New Arrest Post-program - Offense Category	Calculated at 6 months, 1 year, 2 years, and 3 years	<ul style="list-style-type: none"> <li>• B&amp;E/home invasion</li> <li>• C.S. manufacture/distribution</li> <li>• C.S. use/possession</li> <li>• DUI alcohol 1<sup>st</sup></li> <li>• DUI alcohol 2<sup>nd</sup></li> <li>• DUI alcohol 3<sup>rd</sup></li> <li>• Neglect and abuse-civil</li> <li>• Neglect and abuse-criminal</li> <li>• Non-violent sex offense</li> <li>• Other drug offense</li> <li>• Other criminal traffic offense</li> <li>• Property offense</li> <li>• Other</li> </ul>
46. Recidivism New Arrest Post-program - Charge Type	Calculated at 6 months, 1 year, 2 years, and 3 years	<ul style="list-style-type: none"> <li>• Felony</li> <li>• Misdemeanor</li> <li>• Civil/petition</li> <li>• Other</li> </ul>
47. Recidivism New Conviction Post-program – Date of Conviction	Calculated at 6 months, 1 year, 2 years, and 3 years	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>
48. Recidivism New Conviction Post-program - Offense Category	Calculated at 6 months, 1 year, 2 years, and 3 years	<ul style="list-style-type: none"> <li>• B&amp;E/home invasion</li> <li>• C.S. manufacture/distribution</li> <li>• C.S. use/possession</li> <li>• DUI alcohol 1<sup>st</sup></li> <li>• DUI alcohol 2<sup>nd</sup></li> <li>• DUI alcohol 3<sup>rd</sup></li> <li>• Neglect and abuse-civil</li> <li>• Neglect and abuse-criminal</li> <li>• Non-violent sex offense</li> <li>• Other drug offense</li> <li>• Other criminal traffic offense</li> <li>• Property offense</li> <li>• Other</li> </ul>
49. Recidivism New Conviction Post-program - Charge Type	Calculated at 6 months, 1 year, 2 years, and 3 years	<ul style="list-style-type: none"> <li>• Felony</li> <li>• Misdemeanor</li> <li>• Civil/petition</li> <li>• Other</li> </ul>
50. Recidivism Post-program Sentence Type	Calculated at 6 months, 1 year, 2 years, and 3 years	<ul style="list-style-type: none"> <li>• Jail</li> <li>• Probation</li> <li>• Split jail/probation</li> <li>• Prison</li> <li>• Other</li> </ul>
51. Recidivism Post-program Length of Sentence	Calculated at 6 months, 1 year, 2 years, and 3 years	<ul style="list-style-type: none"> <li>• Jail = days</li> <li>• Probation = months</li> <li>• Prison = months</li> </ul>
52. Current Sobriety Status Post-program	Calculated at 6 months, 1 year, 2 years, and 3 years	<ul style="list-style-type: none"> <li>• If relapse, give date mm/dd/yyyy</li> </ul>

<b>VARIABLE</b>	<b>DESCRIPTION</b>	<b>VALID VALUES</b>
53. Current Employment Status Post-program	Calculated at 6 months, 1 year, 2 years, and 3 years	<ul style="list-style-type: none"> <li>• Unemployed</li> <li>• Employed part-time &lt; 35 hours</li> <li>• Employed full-time <math>\geq</math> 35 hours</li> <li>• Not in labor force (student, home maker, retired, etc.)</li> </ul>
54. Current Employment Status Post-program Improvement	Since leaving drug court, has employment status improved?	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
55. Current Employment Status Post-program -Date	Date of change in employment status post-program	<ul style="list-style-type: none"> <li>• mm/dd/yyyy</li> </ul>

Questions about this data set can be directed to [TrialCourtServices@courts.mi.gov](mailto:TrialCourtServices@courts.mi.gov).

# *Appendix C:*

## *Michigan Drug Court Statute*

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### **600.1060 Definitions.**

As used in this chapter:

- (a) "Dating relationship" means that term as defined in section 2950.
- (b) "Domestic violence offense" means any crime alleged to have been committed by an individual against his or her spouse or former spouse, an individual with whom he or she has a child in common, an individual with whom he or she has had a dating relationship, or an individual who resides or has resided in the same household.
- (c) "Drug treatment court" means a court supervised treatment program for individuals who abuse or are dependent upon any controlled substance or alcohol. A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:
  - (i) Integration of alcohol and other drug treatment services with justice system case processing.
  - (ii) Use of a nonadversarial approach by prosecution and defense that promotes public safety while protecting any participant's due process rights.
  - (iii) Identification of eligible participants early with prompt placement in the program.
  - (iv) Access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
  - (v) Monitoring of participants effectively by frequent alcohol and other drug testing to ensure abstinence from drugs or alcohol.
  - (vi) Use of a coordinated strategy with a regimen of graduated sanctions and rewards to govern the court's responses to participants' compliance.
  - (vii) Ongoing close judicial interaction with each participant and supervision of progress for each participant.
  - (viii) Monitoring and evaluation of the achievement of program goals and the program's effectiveness.
  - (ix) Continued interdisciplinary education in order to promote effective drug court planning, implementation, and operation.
  - (x) The forging of partnerships among other drug courts, public agencies, and community-based organizations to generate local support.
- (d) "Participant" means an individual who is admitted into a drug treatment court.
- (e) "Prosecutor" means the prosecuting attorney of the county, the city attorney, the village attorney, or the township attorney.
- (f) "Traffic offense" means a violation of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of a local ordinance substantially corresponding to a violation of that act, that involves the operation of a vehicle and, at the time of the violation, is a felony or misdemeanor.
- (g) "Violent offender" means an individual who meets either of the following criteria:
  - (i) Is currently charged with or has pled guilty to, or, if a juvenile, is currently alleged to have committed or has admitted responsibility for, an offense involving the death of or a serious bodily injury to any individual, or the carrying, possessing, or use of a firearm or other dangerous weapon by that individual, whether or not any of these circumstances are an element of the offense, or is criminal sexual conduct of any degree.
  - (ii) Has 1 or more prior convictions for, or, if a juvenile, has 1 or more prior findings of responsibility for, a felony involving the use or attempted use of force against another individual with the intent to cause death or serious bodily harm.

**600.1062 Drug treatment court; adoption by circuit or district court; memorandum of understanding; parties; adoption by family division of circuit court; training; transfer of participant from another jurisdiction.**

(1) The circuit court in any judicial circuit or the district court in any judicial district may adopt or institute a drug treatment court, pursuant to statute or court rules. However, if the drug treatment court will include in its program individuals who may be eligible for discharge and dismissal of an offense, delayed sentence, or deviation from the sentencing guidelines, the circuit or district court shall not adopt or institute the drug treatment court unless the circuit or district court enters into a memorandum of understanding with each participating prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit or district, the local substance abuse coordinating agency for that circuit or district, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit or district. The memorandum of understanding shall describe the role of each party.

(2) The family division of circuit court in any judicial circuit may adopt or institute a juvenile drug treatment court, pursuant to statute or court rules. However, if the drug treatment court will include in its program individuals who may be eligible for discharge or dismissal of an offense, or a delayed sentence, the family division of circuit court shall not adopt or institute a juvenile drug treatment court unless the family division of circuit court enters into a memorandum of understanding with each participating county prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar specializing in juvenile law, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit, the local substance abuse coordinating agency for that circuit, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit. The memorandum of understanding shall describe the role of each party. A juvenile drug treatment court is subject to the same procedures and requirements provided in this chapter for drug treatment courts created under subsection (1), except as specifically provided otherwise in this chapter.

(3) A court that is adopting a drug treatment court shall participate in training as required by the state court administrative office and the bureau of justice assistance of the United States department of justice.

(4) A court that has adopted a drug treatment court pursuant to this section may accept participants from any other jurisdiction in this state based upon either the residence of the participant in the receiving jurisdiction or the unavailability of a drug treatment court in the jurisdiction where the participant is charged. The transfer is not valid unless it is agreed to by all of the following:

- (a) The defendant or respondent.
- (b) The attorney representing the defendant or respondent.
- (c) The judge of the transferring court and the prosecutor of the case.
- (d) The judge of the receiving drug treatment court and the prosecutor of a court funding unit of the drug treatment court.

**600.1063 Hiring or contracting with treatment providers.**

A drug treatment court may hire or contract with licensed or accredited treatment providers, in consultation and cooperation with the local substance abuse coordinating agency, and other such appropriate persons to assist the drug treatment court in fulfilling its requirements under this chapter, such as the investigation of an individual's background or circumstances, or the clinical evaluation of an individual, for his or her admission into or participation in a drug treatment court.

**600.1064 Admission to drug treatment court; confidentiality of information obtained from preadmission screening and evaluation assessment; criminal history contained in L.E.I.N.**

(1) Each drug treatment court shall determine whether an individual may be admitted to the drug treatment court. No individual has a right to be admitted into a drug treatment court. However, an individual is not eligible for admission into a drug treatment court if he or she is a violent offender.

(2) In addition to admission to a drug treatment court under this act, an individual who is eligible for admission pursuant to this act may also be admitted to a drug treatment court under any of the following circumstances:

(a) The individual has been assigned the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(b) The individual has had criminal proceedings against him or her deferred and has been placed on probation under any of the following:

(i) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(ii) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(iii) Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(iv) Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(3) To be admitted to a drug treatment court, an individual must cooperate with and complete a preadmissions screening and evaluation assessment and must agree to cooperate with any future evaluation assessment as directed by the drug treatment court. A preadmission screening and evaluation assessment shall include all of the following:

(a) A complete review of the individual's criminal history, and a review of whether or not the individual has been admitted to and has participated in or is currently participating in a drug treatment court, whether admitted under this act or under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the results of the individual's participation. A review of the law enforcement information network may be considered sufficient for purposes of this subdivision unless a further review is warranted. The court may accept other verifiable and reliable information from the prosecution or defense to complete its review and may require the individual to submit a statement as to whether or not he or she has previously been admitted to a drug treatment court and the results of his or her participation in the prior program or programs.

(b) An assessment of the risk of danger or harm to the individual, others, or the community.

(c) As much as practicable, a complete review of the individual's history regarding the use or abuse of any controlled substance or alcohol and an assessment of whether the individual abuses controlled substances or alcohol or is drug or alcohol dependent. It is the intent of the legislature that this assessment should be a clinical assessment as much as practicable.

(d) A review of any special needs or circumstances of the individual that may potentially affect the individual's ability to receive substance abuse treatment and follow the court's orders.

(e) For a juvenile, an assessment of the family situation including, as much as practicable, a comparable review of any guardians or parents.

(4) Except as otherwise permitted in this act, any statement or other information obtained as a result of participating in a preadmission screening and evaluation assessment under subsection (3) is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use.

(5) The court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to an individual applicant's criminal history for the

purposes of determining an individual's admission into the drug treatment court and general criminal history review, including whether the individual has previously been admitted to and participated in a drug treatment court under this act, or under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the results of the individual's participation. The department of state police shall provide the information requested by a drug treatment court under this subsection.

**600.1066 Placement of findings or statement in court file.**

Before an individual is admitted into a drug treatment court, the court shall find on the record, or place a statement in the court file pertaining to, all of the following:

- (a) The individual is dependent upon or abusing drugs or alcohol and is an appropriate candidate for participation in the drug treatment court.
- (b) The individual understands the consequences of entering the drug treatment court and agrees to comply with all court orders and requirements of the court's program and treatment providers.
- (c) The individual is not an unwarranted or substantial risk to the safety of the public or any individual, based upon the screening and assessment or other information presented to the court.
- (d) The individual is not a violent offender.
- (e) The individual has completed a preadmission screening and evaluation assessment under section 1064(3) and has agreed to cooperate with any future evaluation assessment as directed by the drug treatment court.
- (f) The individual meets the requirements, if applicable, under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.
- (g) The terms, conditions, and the duration of the agreement between the parties, especially as to the outcome for the participant of the drug treatment court upon successful completion by the participant or termination of participation.

**600.1068 Individual charged in criminal case; factors for admission to drug treatment court.**

(1) If the individual being considered for admission to a drug treatment court is charged in a criminal case or, in the case of a juvenile, is alleged to have engaged in activity that would constitute a criminal act if committed by an adult, his or her admission is subject to all of the following conditions:

- (a) The offense or offenses allegedly committed by the individual must be related to the abuse, illegal use, or possession of a controlled substance or alcohol.
- (b) The individual, if an adult, must plead guilty to the charge or charges on the record. The individual, if a juvenile, must admit responsibility for the violation or violations that he or she is accused of having committed.
- (c) The individual must waive, in writing, the right to a speedy trial, the right to representation at drug treatment court review hearings by an attorney, and, with the agreement of the prosecutor, the right to a preliminary examination.
- (d) The individual must sign a written agreement to participate in the drug treatment court.

(2) In the case of an individual who will be eligible for discharge and dismissal of an offense, delayed sentence, or deviation from the sentencing guidelines, the prosecutor must approve of the admission of the individual into the drug treatment court in conformity with the memorandum of understanding under section 1062.

(3) An individual shall not be admitted to, or remain in, a drug treatment court pursuant to an agreement that would permit a discharge or dismissal of a traffic offense upon successful completion of the drug treatment court program.

(4) In addition to rights accorded a victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the drug treatment court must permit any victim of the offense or offenses of which the individual is charged, any victim of a prior offense of which that individual was convicted, and members of the community in which either the offenses were committed or in which the defendant resides to submit a written statement to the court regarding the advisability of admitting the individual into the drug treatment court.

(5) An individual who has waived his or her right to a preliminary examination and has pled guilty or, in the case of a juvenile, has admitted responsibility, as part of his or her application to a drug treatment court and who is not admitted to a drug treatment court, shall be permitted to withdraw his or her plea and is entitled to a preliminary examination or, in the case of a juvenile, shall be permitted to withdraw his or her admission of responsibility.

**600.1070 Admission of individual into drug treatment court; requirements.**

(1) Upon admitting an individual into a drug treatment court, all of the following apply:

(a) For an individual who is admitted to a drug treatment court based upon having criminal charges currently filed against him or her, the court shall accept the plea of guilty or, in the case of a juvenile, the admission of responsibility.

(b) For an individual who pled guilty to, or admitted responsibility for, criminal charges for which he or she was admitted into the drug treatment court, the court shall do either of the following:

(i) In the case of an individual who pled guilty to an offense that is not a traffic offense and who may be eligible for discharge and dismissal pursuant to the agreement with the court and prosecutor upon successful completion of the drug treatment court program, the court shall not enter a judgment of guilt or, in the case of a juvenile, shall not enter an adjudication of responsibility.

(ii) In the case of an individual who pled guilty to a traffic offense or who pled guilty to an offense but may not be eligible for discharge and dismissal pursuant to the agreement with the court and prosecutor upon successful completion of the drug treatment court program, the court shall enter a judgment of guilt or, in the case of a juvenile, shall enter an adjudication of responsibility.

(c) Pursuant to the agreement with the individual and the prosecutor, the court may either defer further proceedings as provided in section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as applicable in that case pursuant to that agreement, and place the individual on probation or other court supervision in the drug treatment court program with terms and conditions according to the agreement and as deemed necessary by the court.

(2) The court shall maintain jurisdiction over the drug treatment court participant as provided in this act until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2. In the case of a juvenile participant, the court may obtain jurisdiction over any parents or guardians of the juvenile in order to assist in ensuring the juvenile's continued participation and successful completion of the drug treatment court, and may issue and enforce any appropriate and necessary order regarding the parent or guardian of a juvenile participant.

(3) The drug treatment court shall cooperate with, and act in a collaborative manner with, the prosecutor, defense counsel, treatment providers, the local substance abuse coordinating agency for that circuit or district, probation departments, and, to the extent possible, local law enforcement, the department of corrections, and community corrections agencies.

(4) The drug treatment court may require an individual admitted into the court to pay a reasonable drug court fee that is reasonably related to the cost to the court for administering the drug treatment court

program as provided in the memorandum of understanding under section 1062. The clerk of the drug treatment court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month.

(5) The drug treatment court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to an individual applicant's criminal history for purposes of determining the individual's compliance with all court orders. The department of state police shall provide the information requested by a drug treatment court under this subsection.

#### **600.1072 Monitoring, testing, and assessments to be provided to participants.**

(1) A drug treatment court shall provide a drug court participant with all of the following:

- (a) Consistent, continual, and close monitoring of the participant and interaction among the court, treatment providers, probation, and the participant.
- (b) Mandatory periodic and random testing for the presence of any controlled substance or alcohol in a participant's blood, urine, or breath, using to the extent practicable the best available, accepted, and scientifically valid methods.
- (c) Periodic evaluation assessments of the participant's circumstances and progress in the program.
- (d) A regimen or strategy of appropriate and graduated but immediate rewards for compliance and sanctions for noncompliance, including, but not limited to, the possibility of incarceration or confinement.
- (e) Substance abuse treatment services, relapse prevention services, education, and vocational opportunities as appropriate and practicable.

(2) Any statement or other information obtained as a result of participating in assessment, treatment, or testing while in a drug treatment court is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use.

#### **600.1074 Continuing and completing drug treatment court program; requirements.**

(1) In order to continue to participate in and successfully complete a drug treatment court program, an individual shall comply with all of the following:

- (a) Pay all court ordered fines and costs, including minimum state costs.
- (b) Pay the drug treatment court fee allowed under section 1070(4).
- (c) Pay all court ordered restitution.
- (d) Pay all crime victims rights assessments under section 5 of 1989 PA 196, MCL 780.905.
- (e) Comply with all court orders, violations of which may be sanctioned according to the court's discretion.

(2) The drug treatment court must be notified if the participant is accused of a new crime, and the judge shall consider whether to terminate the participant's participation in the drug treatment program in conformity with the memorandum of understanding under section 1062. If the participant is convicted of a felony for an offense that occurred after the defendant is admitted to drug treatment court, the judge shall terminate the participant's participation in the program.

(3) The court shall require that a participant pay all fines, costs, the fee, restitution, and assessments described in subsection (1)(a) to (d) and pay all, or make substantial contributions toward payment of, the costs of the treatment and the drug treatment court program services provided to the participant, including, but not limited to, the costs of urinalysis and such testing or any counseling provided. However, if the court determines that the payment of fines, the fee, or costs of treatment under this subsection would be a substantial hardship for the individual or would interfere with the individual's substance abuse treatment, the court may waive all or part of those fines, the fee, or costs of treatment.

**600.1076 Completion or termination of drug treatment program; findings on the record or written statement in court file; applicable law; discharge and dismissal of proceedings; criteria; discharge and dismissal of domestic violence offense; circumstances; duties of court; effect of termination; court proceedings open to public; retention of nonpublic record by department of state police.**

(1) Upon completion or termination of the drug treatment court program, the court shall find on the record or place a written statement in the court file as to whether the participant completed the program successfully or whether the individual's participation in the program was terminated and, if it was terminated, the reason for the termination.

(2) For a participant who successfully completes probation or other court supervision and whose proceedings were deferred or who was sentenced under section 1070, the court shall comply with the agreement made with the participant upon admission into the drug treatment court, or the agreement as it was altered after admission by the court with approval of the participant and the prosecutor for that jurisdiction as provided in subsections (3) to (8).

(3) If an individual is participating in a drug treatment court under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, or section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430, the court shall proceed under the applicable section of law. There may only be 1 discharge or dismissal under this subsection.

(4) Except as provided in subsection (5), the court, with the agreement of the prosecutor and in conformity with the terms and conditions of the memorandum of understanding under section 1062, may discharge and dismiss the proceedings against an individual who meets all of the following criteria:

- (a) The individual has participated in a drug treatment court for the first time.
- (b) The individual has successfully completed the terms and conditions of the drug treatment court program.
- (c) The individual is not required by law to be sentenced to a correctional facility for the crimes to which he or she has pled guilty.
- (d) The individual is not currently charged with and has not pled guilty to a traffic offense.
- (e) The individual has not previously been subject to more than 1 of any of the following:
  - (i) Assignment to the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.
  - (ii) The dismissal of criminal proceedings against him or her under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, or section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430.

(5) The court may grant a discharge and dismissal of a domestic violence offense only if all of the following circumstances apply:

- (a) The individual has not previously had proceedings dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.
- (b) The domestic violence offense is eligible to be dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.
- (c) The individual fulfills the terms and conditions imposed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, and the discharge and dismissal of proceedings are processed and reported under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(6) A discharge and dismissal under subsection (4) shall be without adjudication of guilt or, for a juvenile, without adjudication of responsibility and are not a conviction or a finding of responsibility for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or, for a juvenile, a finding of responsibility. There may only be 1 discharge and dismissal under subsection (4) for an individual. The court shall send a record of the discharge and dismissal to the criminal justice information center of the department of state police, and the department of state police

shall enter that information into the law enforcement information network with an indication of participation by the individual in a drug treatment court. All records of the proceedings regarding the participation of the individual in the drug treatment court under subsection (4) are closed to public inspection, and are exempt from public disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) Except as provided in subsection (3), (4), or (5), if an individual has successfully completed probation or other court supervision, the court shall do the following:

(a) If the court has not already entered an adjudication of guilt or responsibility, enter an adjudication of guilt or, in the case of a juvenile, enter a finding or adjudication of responsibility.

(b) If the court has not already sentenced the individual, proceed to sentencing or, in the case of a juvenile, disposition pursuant to the agreement.

(c) Send a record of the conviction and sentence or the finding or adjudication of responsibility and disposition to the criminal justice information center of the department of state police. The department of state police shall enter that information into the law enforcement information network with an indication of successful participation by the individual in a drug treatment court.

(8) For a participant whose participation is terminated or who fails to successfully complete the drug treatment court program, the court shall enter an adjudication of guilt, or, in the case of a juvenile, a finding of responsibility, if the entering of guilt or adjudication of responsibility was deferred under section 1070, and shall then proceed to sentencing or disposition of the individual for the original charges to which the individual pled guilty or, if a juvenile, to which the juvenile admitted responsibility prior to admission to the drug treatment court. Upon sentencing or disposition of the individual, the court shall send a record of that sentence or disposition and the individual's unsuccessful participation in the drug treatment court to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the law enforcement information network, with an indication that the individual unsuccessfully participated in a drug treatment court.

(9) All court proceedings under this section shall be open to the public. Except as provided in subsection (10), if the record of proceedings as to the defendant is deferred under this section, the record of proceedings during the period of deferral shall be closed to public inspection.

(10) Unless the court enters a judgment of guilt or an adjudication of responsibility under this section, the department of state police shall retain a nonpublic record of the arrest, court proceedings, and disposition of the criminal charge under this section. However, the nonpublic record shall be open to the following individuals and entities for the purposes noted:

(a) The courts of this state, law enforcement personnel, the department of corrections, and prosecuting attorneys for use only in the performance of their duties or to determine whether an employee of the court, law enforcement agency, department of corrections, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, law enforcement agency, department of corrections, or prosecutor's office.

(b) The courts of this state, law enforcement personnel, and prosecuting attorneys for the purpose of showing that a defendant has already once availed himself or herself of this section.

(c) The department of human services for enforcing child protection laws and vulnerable adult protection laws or ascertaining the preemployment criminal history of any individual who will be engaged in the enforcement of child protection laws or vulnerable adult protection laws.

#### **600.1078 Collection and maintenance of information.**

(1) Each drug treatment court shall collect and provide data on each individual applicant and participant and the entire program as required by the state court administrative office.

(2) Each drug treatment court shall maintain files or databases on each individual applicant or referral who is denied or refused admission to the program, including the reasons for the denial or rejection, the criminal history of the applicant, the preadmission evaluation and assessment, and other demographic information as required by the state court administrative office.

(3) Each drug treatment court shall maintain files or databases on each individual participant in the program for review and evaluation as well as treatment, as directed by the state court administrative office. The information collected for evaluation purposes must include a minimum standard data set developed and specified by the state court administrative office. This information should be maintained in the court files or otherwise accessible by the courts and the state court administrative office and, as much as practicable, should include all of the following:

- (a) Location and contact information for each individual participant, both upon admission and termination or completion of the program for follow-up reviews, and third party contact information.
- (b) Significant transition point dates, including dates of referral, enrollment, new court orders, violations, detentions, changes in services or treatments provided, discharge for completion or termination, any provision of after-care, and after-program recidivism.
- (c) The individual's precipitating offenses and significant factual information, source of referral, and all drug treatment court evaluations and assessments.
- (d) Treatments provided, including intensity of care or dosage, and their outcomes.
- (e) Other services or opportunities provided to the individual and resulting use by the individual, such as education or employment and the participation of and outcome for that individual.
- (f) Reasons for discharge, completion, or termination of the program.

(4) As directed by the state court administrative office, after an individual is discharged either upon completion or termination of the program, the drug treatment court should conduct, as much as practicable, follow-up contacts with and reviews of participants for key outcome indicators, such as drug use, recidivism, and employment, as frequently and for a period of time determined by the state court administrative office based upon the nature of the drug treatment court and the nature of the participant. These follow-up contacts and reviews of former participants are not extensions of the court's jurisdiction over the individuals.

(5) Each drug treatment court shall provide to the state court administrative office all information requested by the state court administrative office.

(6) With the approval and at the discretion of the supreme court, the state court administrative office shall be responsible for evaluating and collecting data on the performance of drug treatment courts in this state as follows:

- (a) The state court administrative office shall provide an annual review of the performance of drug treatment courts in this state to the minority and majority party leaders in the senate and house of representatives, the state drug treatment court advisory board created under section 1082, the governor, and the supreme court.
- (b) The state court administrative office shall provide standards for drug treatment courts in this state including, but not limited to, developing a list of approved measurement instruments and indicators for data collection and evaluation. These standards must provide comparability between programs and their outcomes.
- (c) The state court administrative office's evaluation plans should include appropriate and scientifically valid research designs, which, as soon as practicable, should include the use of comparison and control groups.

(7) The information collected under this section regarding individual applicants to drug treatment court programs for the purpose of application to that program and participants who have successfully completed drug treatment courts shall be exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

#### **600.1080 Disposition of funds.**

(1) The supreme court is responsible for the expenditure of state funds for the establishment and operation of drug treatment courts. Federal funds provided to the state for the operation of drug treatment courts shall be distributed by the department of community health or the appropriate state agency as otherwise provided by law.

(2) The state treasurer may receive money or other assets from any source for deposit into the appropriate state fund or funds for the purposes described in subsection (1).

(3) Each drug treatment court shall report quarterly to the state court administrative office on the funds received and expended by that drug treatment court, in a manner prescribed by the state court administrative office.

**600.1082 Drug treatment court advisory committee.**

(1) A state drug treatment court advisory committee is created in the legislative council. The state drug treatment court advisory committee consists of the following members:

(a) The state court administrator or his or her designee.

(b) Seventeen members appointed jointly by the speaker of the house of representatives and the senate majority leader, as follows:

(i) A circuit court judge who has presided for at least 2 years over a drug treatment court.

(ii) A district court judge who has presided for at least 2 years over a drug treatment court.

(iii) A judge of the family division of circuit court who has presided for at least 2 years over a juvenile drug treatment court program.

(iv) A circuit or district court judge who has presided for at least 2 years over an alcohol treatment court.

(v) A circuit or district court judge who has presided over a veterans treatment court.

(vi) A court administrator who has worked for at least 2 years with a drug or alcohol treatment court.

(vii) A prosecuting attorney who has worked for at least 2 years with a drug or alcohol treatment court.

(viii) An individual representing law enforcement in a jurisdiction that has had a drug or alcohol treatment court for at least 2 years.

(ix) An individual representing drug treatment providers who has worked at least 2 years with a drug or alcohol treatment court.

(x) An individual representing criminal defense attorneys, who has worked for at least 2 years with drug or alcohol treatment courts.

(xi) An individual who has successfully completed a drug treatment court program.

(xii) An individual who has successfully completed a juvenile drug treatment court program.

(xiii) An individual who is an advocate for the rights of crime victims.

(xiv) An individual representing the Michigan association of drug court professionals.

(xv) An individual who is a probation officer and has worked for at least 2 years for a drug or alcohol treatment court.

(xvi) An individual representing a substance abuse coordinating agency.

(xvii) An individual representing domestic violence service provider programs that receive funding from the state domestic violence prevention and treatment board.

(2) Members of the advisory committee shall serve without compensation. However, members of the advisory committee may be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee.

(3) Members of the advisory committee shall serve for terms of 4 years each, except that the members first appointed shall serve terms as follows:

(a) The members appointed under subsection (1)(b)(i) to (vi) shall serve terms of 4 years each.

(b) The members appointed under subsection (1)(b)(vii) to (xi) shall serve terms of 3 years each.

(c) The members appointed under subsection (1)(b)(xii) to (xvii) shall serve terms of 2 years each.

(4) If a vacancy occurs in an appointed membership on the advisory committee, the appointing authority shall make an appointment for the unexpired term in the same manner as the original appointment.

(5) The appointing authority may remove an appointed member of the advisory committee for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(6) The first meeting of the advisory committee shall be called by the speaker of the house of representatives and the senate majority leader. At the first meeting, the advisory committee shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the advisory committee shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 9 or more members.

(7) A majority of the members of the advisory committee constitute a quorum for the transaction of business at a meeting of the advisory committee. A majority of the members present and serving are required for official action of the advisory committee.

(8) The business that the advisory committee may perform shall be conducted at a public meeting of the advisory committee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(9) A writing prepared, owned, used, in the possession of, or retained by the advisory committee in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) The advisory committee shall monitor the effectiveness of drug treatment courts and veterans treatment courts and the availability of funding for those courts and shall present annual recommendations to the legislature and supreme court regarding proposed statutory changes regarding those courts.

#### **600.1084 DWI/sobriety court interlock pilot project or program; definitions.**

(1) A DWI/sobriety court interlock pilot project is created utilizing the DWI/sobriety courts in this state and in accordance with the provisions of this chapter. The DWI/sobriety court interlock pilot project shall begin on January 1, 2011 and shall continue for a period of 4 years after that date. Beginning January 1, 2015, the DWI/sobriety court interlock program shall be created and shall continue with the same requirements, eligibility criteria, authority, and limitations as those prescribed in this section for the DWI/sobriety court interlock pilot project. An individual who is a participant in a DWI/sobriety court interlock pilot project on December 31, 2014 shall become, automatically, a participant in a DWI/sobriety court interlock program on January 1, 2015, unless the individual's participation in the pilot project ceased by its own terms before January 1, 2015.

(2) All DWI/sobriety courts that participate in the pilot project or program shall comply with the 10 guiding principles of DWI courts as promulgated by the national center for DWI courts.

(3) In order to be considered for placement in the pilot project or program, an individual must have been convicted of either of the following:

(a) Two or more convictions for violating section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or a local ordinance of this state substantially corresponding to section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(b) One conviction for violating section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or a local ordinance of this state substantially corresponding to section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, preceded by 1 or more convictions for violating a local ordinance or law of another state substantially corresponding to section 625(1), (3), or (6) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or a law of the United States substantially corresponding to section 625(1), (3), or (6) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(4) Each year, all DWI/sobriety courts that participate in the pilot project or program, in cooperation with the state court administrative office, shall provide to the legislature, the secretary of state, and the supreme court documentation as to participants' compliance with court ordered conditions. Best practices available shall be used in the research in question, as resources allow, so as to provide statistically reliable data as to the impact of the pilot project or program on public safety and the improvement of life conditions for participants. The topics documented shall include, but not be limited to, all of the following:

- (a) The percentage of those participants ordered to place interlock devices on their vehicles who actually comply with the order.
  - (b) The percentage of participants who remove court-ordered interlocks from their vehicles without court approval.
  - (c) The percentage of participants who consume alcohol or controlled substances.
  - (d) The percentage of participants found to have tampered with court-ordered interlocks.
  - (e) The percentage of participants who operated a motor vehicle not equipped with an interlock.
  - (f) Relevant treatment information as to participants.
  - (g) The percentage of participants convicted of a new offense under section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.
  - (h) Any other information found to be relevant.
- (5) Before the secretary of state issues a restricted license to a pilot project or program participant under section 304 of the Michigan vehicle code, 1949 PA 300, MCL 257.304, the DWI/sobriety court judge shall certify to the secretary of state that the individual seeking the restricted license has been admitted into the pilot project or program and that an interlock device has been placed on each motor vehicle owned or operated, or both, by the individual.
- (6) If any of the following occur, the DWI/sobriety court judge shall immediately inform the secretary of state of that occurrence:
- (a) The court orders that a pilot project or program participant be removed from the DWI/sobriety court pilot project or program before he or she successfully completes it.
  - (b) The court becomes aware that a participant operates a motor vehicle that is not equipped with an interlock device or that a participant tampers with, circumvents, or removes a court-ordered interlock device without prior court approval.
  - (c) A participant is charged with a new violation of section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.
- (7) The receipt of notification by the secretary of state under subsection (6) shall result in summary revocation or suspension of the restricted license under section 304 of the Michigan vehicle code, 1949 PA 300, MCL 257.304.
- (8) As used in this section:
- (a) "DWI/sobriety courts" means the specialized court docket and programs established within judicial circuits and districts throughout this state that are designed to reduce recidivism among alcohol offenders and that comply with the 10 guiding principles of DWI courts as promulgated by the national center for DWI courts.
  - (b) "Ignition interlock device" means that term as defined in section 20d of the Michigan vehicle code, 1949 PA 300, MCL 257.20d.
  - (c) "Pilot project" means the DWI/sobriety court interlock pilot project created under subsection (1) on September 2, 2010 and authorized to operate for 4 years beginning January 1, 2011.
  - (d) "Program" means the DWI/sobriety court interlock program created on the effective date of the amendatory act that added this subdivision and authorized to operate beginning January 1, 2015.